S. Hrg. 98-1253

UTAH LAND MANAGEMENT AND IMPROVEMENT ACT OF 1984

HEARING

BEFORE THE

SUBCOMMITTEE ON
PUBLIC LANDS AND RESERVED WATER

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

S. 2471

A BILL TO IMPROVE THE LANDOWNERSHIP PATTERNS AND MANAGEMENT OF STATE AND FEDERAL LANDS IN THE STATE OF UTAH, AND FOR OTHER PURPOSES

S. 2949

A BILL TO IMPROVE THE LAND OWNERSHIP PATTERNS AND MANAGEMENT OF STATE AND FEDERAL LANDS IN THE STATE OF UTAH, AND FOR OTHER PURPOSES

OCTOBER 2, 1984

Printed for the use of the
Committee on Energy and Natural Resources

U.S. GOVERNMENT PRINTING OFFICE
42-869 O WASHINGTON : 1985

5311-30

COMMITTEE ON ENERGY AND NATURAL RESOURCES

JAMES A. McCLURE, Idaho, *Chairman*

MARK O. HATFIELD, Oregon
LOWELL P. WEICKER, Jr., Connecticut
PETE V. DOMENICI, New Mexico
MALCOLM WALLOP, Wyoming
JOHN W. WARNER, Virginia
FRANK H. MURKOWSKI, Alaska
DON NICKLES, Oklahoma
CHIC HECHT, Nevada
JOHN H. CHAFEE, Rhode Island
JOHN HEINZ, Pennsylvania
DANIEL J. EVANS, Washington

J. BENNETT JOHNSTON, Louisiana
DALE BUMPERS, Arkansas
WENDELL H. FORD, Kentucky
HOWARD M. METZENBAUM, Ohio
SPARK M. MATSUNAGA, Hawaii
JOHN MELCHER, Montana
PAUL E. TSONGAS, Massachusetts
BILL BRADLEY, New Jersey
CARL LEVIN, Michigan

Michael D. Hathaway, *Staff Director*
Charles A. Trabandt, *Chief Counsel*
D. Michael Harvey, *Chief Counsel for the Minority*

Subcommittee on Public Lands and Reserved Water

MALCOLM WALLOP, Wyoming, *Chairman*

MARK O. HATFIELD, Oregon
CHIC HECHT, Nevada
JOHN H. CHAFEE, Rhode Island
PETE V. DOMENICI, New Mexico
DANIEL J. EVANS, Washington

DALE BUMPERS, Arkansas
SPARK M. MATSUNAGA, Hawaii
JOHN MELCHER, Montana
CARL LEVIN, Michigan

James A. McClure and J. Bennett Johnston are Ex Officio Members of the Subcommittee
Tony Bevinetto, *Professional Staff Member*

CONTENTS

Page
S. 2471 3
S. 2949 20

STATEMENTS

Bangerter, Hon. Norman H., speaker of the Utah State house of representatives, West Valley City, UT 120
Becker, Ralph E., Jr., deputy director, Utah State Office of Planning and Budget, Salt Lake City, UT 145
Billie, Robert R., Navajo Tribal Council delegate, Montezuma Creek, UT 117
Black, Calvin, chairman, San Juan County Commission, Blanding, UT 85
Cahn, Ninibah Morgan, supervisor, title section, Navajo Nation Land Development, Window Rock, AZ 111
Carruthers, Dr. Garrey E., Assistant Secretary, Land and Minerals Management, Department of the Interior, accompanied by Roland Robinson, State director, bureau of land management, State of Utah 75
Cleary, Paul, Wyoming Governor's office, on behalf of Governor Hershler 183
Dehiya, Alfred, director, Office of Navajo Land Development, Navajo Nation, Window Rock, AZ 105
Finlinson, Hon. Fred W., Utah State senator, Murray, UT 125
Garn, Hon. Jake, a U.S. Senator from the State of Utah 39
Gordon, Gerald E., Utah Wildlife Federation 70
Hansen, Hon. James V., a U.S. Representative from the State of Utah 41
Hatch, Hon. Orrin G., a U.S. Senator from the State of Utah 76
Matheson, Hon. Scott M., Governor, State of Utah 43
Michieli, Ron, vice president, natural resources, National Cattlemen's Association, on behalf of the Utah Cattlemen's Association, Salt Lake City, UT 191
Miles, Ralph A., director, division of State lands and forestry, Snyderville, UT 154
Norton, James W., assistant director, BLM programs, the Wilderness Society 197
Owens, Wayne, Democratic candidate for Governor, State of Utah 69
Shimer, R. Philip, Washington, representative; Western Governors' Association, Washington, DC 177
Stephenson, John H., chairman, Wasatch Front Chapter, Society of American Foresters 72
St. John, Chandler P., member, Utah Board of State Lands and Forestry, Salt Lake City, UT 140
Wallop, Hon. Malcolm, a U.S. Senator from the State of Wyoming 1
White, James J., county commissioner, Box Elder County, Garland, UT 133
Zajonc, Ed, past president, Western States Land Commissioners Association 174

APPENDIX

Additional material submitted for the record 211

UTAH LAND MANAGEMENT AND IMPROVEMENT ACT OF 1984

TUESDAY, OCTOBER 2, 1984

U.S. Senate,
Subcommittee on Public Lands and Reserved Water,
Committee on Energy and Natural Resources,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:05 a.m., in room SD-366, Dirksen Office Building, Hon. Malcolm Wallop, presiding.

Present: Senator Wallop.

Also present: Tony Bevinetto, professional staff member; and Thomas B. Williams, professional staff member for the minority.

OPENING STATEMENT OF HON. MALCOLM WALLOP, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator **Wallop**. Good morning, welcome to the witnesses here and my colleague, Jake Garn, and Governor Matheson, and others.

The Subcommittee on Public Lands and Reserved Water will hear testimony this morning on two bills—S. 2471 and 2949—to improve the land ownership patterns and management of State and Federal lands in the State of Utah and for other purposes. Without objection, I will place a copy of each of these bills in the hearing record.

The project proposed by these two bills, commonly referred to as Project BOLD, would involve a massive land ownership exchange between the State of Utah and the Federal Government wherein the State of Utah would exchange over 5,000 scattered State-owned sections for equivalent Federal lands in 40 to 50 tracts.

The proposal was developed as a result of discussions between officials of the State of Utah and the Department of the Interior and appears to have considerable merit in improving the management efficiencies of both State and Federal land management agencies.

Senator Garn and Senator Hatch, sponsors of the bills that we will be discussing, plan to be with us today, and their schedules permitting, I welcome their participation throughout the hearing, or as much as their schedules permit. Also Congressman Hansen and Nielson have indicated they wish to testify and due to their busy schedules, they will be heard as they appear, and I ask the indulgence of other witnesses if it becomes necessary to interrupt or change the order of testimony in order to accommodate members.

I would also like to welcome Governor Matheson to meet with us today and to discuss Project BOLD. I know he has invested a great deal of personal effort as well as the resources of his State in this project.

Obviously with only a few days left before adjournment we will not take action on this legislation this year. Nevertheless, I believe it is appropriate to initiate discussions at this time so that all interested parties will have ample opportunity to consider the proposal before the 99th Congress convenes in 1985.

While we are pleased to see the interest in Project BOLD legislation, I am certain that witnesses will appreciate the need to limit oral testimony to 3 minutes. We will be using a timer, and in fairness to all who wish to testify who have come from a considerable distance, we must enforce the time limit. Complete written statements of everyone will be included in the hearing record. Any additional maps, material, descriptive material you may wish to provide will be retained in the subcommittee files so that it will be available to us and to the staff.

The hearing record will remain open for 2 weeks after today, and you can submit a copy of your testimony or other written information to the subcommittee's office here in Washington.

[The texts of S. 2471 and S. 2949 follow:]

II

98TH CONGRESS
2D SESSION

S. 2471

To improve the landownership patterns and management of State and Federal lands in the State of Utah, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 22 (legislative day, MARCH 19), 1984

Mr. GARN (for himself and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To improve the landownership patterns and management of State and Federal lands in the State of Utah, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Utah Federal and State Land Management Improvement Act of 1984".

FINDINGS AND PURPOSES

SEC. 2. The Congress finds that as a result of land grants made by Congress in the Enabling Act for the State of Utah (28 Stat. 107), land patterns in the State of Utah unnecessarily increase the burden of land management for the State government on lands it owns and makes it difficult for the Federal Government to manage lands it owns within the State of Utah. It is in the public interest that comprehensive adjustments in these land patterns be made. Because of the magnitude of this land adjustment, it is appropriate that the adjustment be made by Congress rather than relegating the problem to resolution through slower and more costly exchange processes authorized by other Acts.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Secretary" means the Secretary of the Interior.

(2) "State" means the State of Utah.

(3) "Governor" means the Governor of the State of Utah.

(4) "Federal land" means may land or interest in land owned by the United States.

(5) "State land" means any land or interest in land owned by the State of Utah.

(6) "System" means the National Park System, the Wild and Scenic River System, the National Wildlife Refuge System, the National Trails System, the National Wilderness Preservation System, Military Reservations, Indian Reservations and Trust lands, and public lands as defined by the Federal Land Policy and Management Act of 1976 (43 USC 1701 et seq.).

EXCHANGE OF LANDS

SEC. 4. (a) There shall be conveyed to the State of Utah the Federal land designated for conveyance to the State on the map entitled "State of Utah, Project BOLD—Land Consolidation and Exchange Proposal" dated Janaury 23, 1984. A copy of the map shall be on file and available for public inspection in the offices of the Bureau of Land Management in the State of Utah and in Washington, D.C. Such conveyance shall be effective on the occurrence of all of the following:

(1) Existence of State law accepting and authorizing the State to implement section 4 of this Act applicable to the State;

(2) Publication in the Federal Register of legal land descriptions, approved by the Secretary, of the Federal land to be conveyed to the State by the Act;

(3) Publication by the Secretary, in the Federal Register, of legal land descriptions prepared and approved by the Governor, of the State land to be conveyed to the Federal Government in exchange for the Federal land;

(4) Delivery by the State to the Secretary of documents of conveyance of the State land designated on such map for conveyance to the United States; and

(5) Delivery by the Federal Government to the State of documents of conveyance of the Federal land designated on such map for conveyance to the State.

(6) These conveyances should be completed within two years after enactment of this Act.

(b) The Secretary and the Governor, after consultation and with concurrence of each, may issue corrective documents, including but not limited to quit claim deeds, to correct errors and management problems that may occur in connection with or as a result of the lands being exchanged under this Act. Such documents shall be duly recorded and a notice of the correction shall be published in the Federal Register.

(c)(1) The conveyance of Federal lands under this Act shall by subject to such terms, covenants, conditions, and reservations as the Secretary, with the concurrence of the Governor, deems necessary to comply with the provisions of this Act. Such conveyance shall not be subject to the provision of title II of the Federal Land Policy and Management Act of 1976.

(2) The conveyance of State lands under this Act shall be subject to such terms, covenants, conditions, and reservations as the Governor, with the concurrence of the Secretary, deems necessary to comply with the provisions of this Act.

(3) All terms, covenants, conditions, and reservations applicable to any conveyance under this Act, unless otherwise provided for in this Act, shall be included in the appropriate instruments of conveyance.

(d)(1) Except as otherwise required pursuant to this Act and as specified on the map referred to in subsection (a), each conveyance pursuant to this Act shall include the entire surface and subsurface estate. Whenever a lesser estate is conveyed, the lesser estate shall be stipulated in the legal descriptions referred to in this section.

(2) In the case of any Federal or State land conveyed under this Act which is subject to an oil or gas lease (or both), if the Secretary (in the case of Federal lands to be conveyed to the State) or the State (in the case of State lands to be conveyed to the Secretary) determines that oil or gas (or both) is being produced under such lease during the calendar year 1984, the interest in the oil or gas (or both) which is subject to such lease may not be conveyed by the Secretary to the State or by the State to the Secretary.

(e) All lands acquired by the United States pursuant to this Act shall, on acceptance of title by the United States, become a part of the system within which they are wholly located, without any further action by the Secretary. Any lands acquired by the United States that are not wholly within a System shall become a part of the public land System.

UNITIZATION AGREEMENT

SEC. 5. (a) To facilitate oil and gas resource management, the Secretary shall seek to enter into a unitization agreement with the State of Utah within five years after the date of enactment of this Act for areas designated as such on the map entitled "State of Utah, Project BOLD—Land Consolidation and Exchange Proposal" dated January 23, 1984.

(b) The Federal Government and the State of Utah shall retain ownership of oil and gas interests on those State and Federal lands within areas described in subsection (a) which are conveyed pursuant to this Act.

(c) A unitization agreement entered into under this section shall provide for the distribution of revenues from oil and gas lease production on non-Indian lands within areas identified in subsection (a) to the United States and to the State in proportion to the oil and gas mineral estate acreage, excluding lands within the boundaries of Indian reservations, held by the respective governments.

(d) A unitization agreement entered into under this section shall provide for surface and mineral management policies and procedures within the identified areas to the extent that such policies may affect development and extraction of the oil and gas resource.

PROTECTION OF GRAZING RIGHTS

SEC. 6. (a) Those Federal permits and leases and those State of Utah permits and leases for domestic livestock grazing on lands affected by exchanges under this Act and the rights, privileges, contracts, terms, and conditions of user agreements, and responsibilities attached to such permits and leases, and the opportunities for future permit or lease issuance for grazing on such lands shall be protected as provided in this section.

(b) The State shall assume all rights and duties of the United States under each Federal grazing lease or permit providing for domestic livestock grazing on Federal lands which are conveyed pursuant to this Act to the State. Each such lease or permit shall be honored and enforced by the State of Utah under the existing Federal permit or lease terms and applicable Federal law and regulations. Upon the expiration or termination through no fault of the lessee or permittee of such lease or permit, the lessee or permittee shall be entitled to a right-of-first refusal for the issuance of a State of Utah grazing lease or permit for the lands to which such Federal lease or permit applied, maintaining the same lease or permit usage understandings as prior to the exchange.

(c) The Secretary of the Interior shall assume all rights and duties of the State under each State grazing lease or permit providing for domestic livestock grazing on State lands which are conveyed pursuant to this Act to Federal ownership. Each such lease or permit shall be honored and enforced by the Secretary under the existing State permit or lease terms and applicable State law and regulations that have resulted in an understanding of usage between the permittee or lessee and the State. Upon expiration or termination through no fault of the lessee or permittee of such lease or permit, the lessee or permittee shall be entitled to a right-of-first-refusal for the issuance of a Federal grazing lease or permit maintaining the same lease or permit usage understandings as prior to the exchange.

(d)(1) Any Federal or State permit issued before the date of enactment of this Act to make any range improvement on lands conveyed under this Act shall remain valid following such conveyance.

(2) Title to, or any interest in, any range improvement held by the United States or the State on any lands exchanged under this Act shall be transferred with such lands.

(3) Except as provided in paragraph (2), nothing in this Act shall operate to divest title to, or any interest in, any range improvement held by any person on lands exchanged under this Act.

(e) In any instance where State lands are used by any permittee to meet the base property requirements for a Federal grazing permit or lease, and those State lands are conveyed to the Secretary under this Act, such permit or lease shall remain in effect. For renewal purposes or for issuance to a subsequent party, the lands covered by said permit or lease shall henceforth be deemed to satisfy such non-Federal property base requirements and shall be available for grazing lease or permit without otherwise meeting such requirements, unless those requirements subsequently are met by other base property.

PROTECTION OF HARDROCK MINERAL RIGHTS

SEC. 7. (a) Valid existing claims established under the general mining laws of the United States and all rights associated with such claims and leases issued by the State for metalliferous minerals on lands affected by this Act shall be protected in accordance with this section.

(b)(1) The title to those Federal lands conveyed to the State under this Act shall be subject to valid existing claims and all rights associated with such claims under the general mining laws of the United States.

(2) If the State permits the owner of any such claim to convert the claim to a preferential, noncompetitive State of Utah mineral lease, sale permit, or other disposition under State law, such claim and all associated rights shall be extinguished.

(3) Any such valid existing claim which is not converted under paragraph (2) shall continue to be administered by the Secretary under the general mining laws of the United States, except as provided in paragraph (6) and except that the Secretary shall consult with the State on minerals management decisions regarding approval of plans of operation, regulation of surface use, and potential environmental impacts, until such time as the claims are abandoned, declared invalid, or converted to State leases under this section.

(4) Upon abandonment, declaration of invalidity, or conversion in accordance with paragraph (2) of any valid existing claim, the Secretary shall take such action as is necessary to clean any encumbrance on the State's title which is associated with such claim.

(5) If any lands acquired by the State under this Act are patented under the general mining laws of the United States or if valid existing claims under such laws encumber the State's title to such lands for more than twenty years after the enactment of this Act, the State may select Federal lands of approximately equivalent value elsewhere in the State in lieu of such lands. Applications for such selections shall be processed in a timely manner by the Secretary, and upon receipt of such in lieu lands, the State shall relinquish to the United States any claims to title and all rights to those lands for which the in lieu selections were made.

(6) Until title is cleared as provided in paragraph (4), a claim is patented, or lands are relinquished for other in lieu selections as provided in paragraph (5), the State shall have authority to manage the surface estate and to make disposition of other minerals and rights and be entitled to such revenues as may be derived therefrom, so long as such State action does not violate rights associated with valid existing claims under the general mining laws of the United States.

(c) If State lands conveyed to the Secretary are under lease to any person under a State metalliferous mineral lease, upon conveyance of such lands the Secretary shall assume all rights and responsibilities of the State under such lease. Royalties and other revenues received by the Secretary under any such lease shall be placed in a separate account in the Treasury. Such account shall bear interest at a rate determined by the Secretary of the Treasury. Such account and any interest accruing thereon shall be used by the Secretary only for administering claims under the general mining laws of the United States on lands acquired by the State under this Act.

(d)(1) State lands conveyed to the Secretary pursuant to this Act shall be open to location, entry, and patent under the general mining laws of the United States upon the issuance by the Secretary of an opening order. Such order shall be consistent with adjacent land use and with prevailing Federal land management policy in the area affected.

(2) Lands leased under a State metalliferous mineral lease shall be opened upon the issuance by the Secretary of an opening order one year after lease expiration, termination, or relinquishment. Such order shall be consistent with adjacent land use and with prevailing Federal land management policy in the area affected.

PROTECTION OF OTHER MINERAL RIGHTS

SEC. 8. (a) The State shall assume all rights and responsibilities of the United States under all Federal mineral leases on lands conveyed to the State pursuant to this Act. All rights, terms, agreements, and responsibilities under such leases (including authorizations for easements, facilities, operations, or other appurtenances on such lands) shall remain in effect after such conveyance except that such rights, terms, agreements, and responsibilities shall be managed and enforced by the State. The rents, royalties, fees, and other payments formerly due the United States under such terms shall be payable by the lessee to the State. The leaseholder shall be entitled to lease extension, renewal, and other administrative action as provided under Federal law, regulations, and the lease agreement.

(b) The Secretary shall assume all rights and responsibilities of the State under any State of Utah nonmetalliferous mineral lease on lands conveyed to the Secretary pursuant to this Act. All rights, terms, agreements, and responsibilities under such lease (including authorizations for easements, facilities, operations, or other appurtenances on such lands) shall remain in effect after such conveyance, except that such rights, terms, agreements, and responsibilities shall be managed and enforced by the Secretary. The rents, royalties, fees, and other payments formerly due the State under such terms shall be payable by the lessee to the Secretary. The leaseholder shall be entitled to extension, renewal, and other administrative action as provided under State law, regulations, and the lease agreement. All revenues received by the Secretary under any State lease acquired under this Act shall be distributed as provided in section 35 of the Mineral Leasing Act of 1920. Nothing in this section shall prohibit the State from imposing taxes or fees which otherwise would be applicable to minerals subject to a Federal lease.

(c) The State shall assume all rights and responsibilities of the United States under each Federal free use permit, sales contract, and other agreement or permit authorizing disposal or use of common variety minerals from Federal lands conveyed to the State pursuant to this Act. Each such permit, contract and other agreement shall be administered by the State under the terms thereof in effect at the time of conveyance and shall be extended, renewed, and subject to such other administrative action as is provided in the permit, contract, or agreement. Any fees, rentals, or payments due under the permit, contract, or agreement shall be payable to the State.

(d) The Secretary shall assume all rights and responsibilities of the State under each State lease, contract, or agreement authorizing disposal, use, or sale of common variety materials from State lands or from State-owned mineral rights conveyed to the Secretary pursuant to this Act. Each such lease, contract, or agreement shall be administered by the Secretary under the terms thereof in effect at the time of conveyance and shall be extended, renewed, and subject to such other administrative action as is provided in the lease, contract, or agreement terms. Any royalties, fees, rentals, or payments due under the lease, contract, or agreement shall be payable to the Secretary.

PROTECTION OF WATER RIGHTS ASSOCIATED WITH PROPERTY

SEC. 9. (a) Water rights appurtenant to the lands conveyed pursuant to this Act, including existing water rights which have been acquired by the United States or the State (but not including reserved water rights) shall be conveyed with the land. Nothing contained in this section shall affect private water rights.

(b) Nothing in this Act shall expand or diminish Federal or State jurisdictions, responsibilities, interests, or rights in water resource development or control, or displace, supercede, limit or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States or of two or more States and the United States.

RIGHTS-OF-WAY AND SPECIAL USE AGREEMENTS

SEC. 10. (a) Nothing in this section shall apply to grazing rights subject to section 6, mineral rights subject to section 7 or 8, or water rights subject to section 9.

(b) Conveyances of land made pursuant to this Act shall be subject to valid existing rights, including any easements, leases, and encumbrances of record at the time of conveyance. Unless otherwise provided in the instrument of conveyance, the grantee shall assume the rights and obligations of the grantor with respect to existing leases and easements, including rights-of-way.

(c) The Secretary shall assume all rights and responsibilities of the State under each State special use lease agreement in effect at time of enactment on State lands conveyed to the Secretary pursuant to this Act. All rights, terms, agreements and responsibilities under such agreements shall remain after such conveyance except that such rights, terms, agreements, and responsibilities shall be managed and enforced by the Secretary in accordance with the terms of the State agreement and for the purposes for which the agreement was executed. Each such agreement may be renewed or reissued by the Secretary if the lessee is in compliance with the terms and conditions of such special use lease agreement.

PROTECTION OF VALUES, RESOURCES, AND USES

SEC. 11. Except as otherwise provided in this Act, the Secretary shall manage lands acquired by the Secretary pursuant to this Act consistent with Federal law, and the State shall manage lands acquired by the State consistent with State of Utah law. The Secretary and the State shall recognize and be sensitive to existing values, resources, and uses, including: forage, water and habitat for domestic livestock and fish and wildlife; access to and opportunities for outdoor recreation; mineral resource exploration and development; the quality of ecological systems; and scientific, historical, and archeological values.

PAYMENTS IN LIEU OF TAXES

SEC. 12(a). Payments by the United States in lieu of taxes pursuant to the provisions of chapter 69, Payment for Entitlement Lands, of title 31 of the United States Code shall cease as to lands conveyed to the State at the end of the fiscal year in which the conveyance under this Act becomes effective.

(b) The United States shall make payments in lieu of taxes on State lands acquired by the United States pursuant to this Act to the extent authorized by said chapter 69 of title 31 of the United States Code, except that the provisions of section 6902(b) of that Act shall not apply. Initiation of payments under this subsection shall coincide with the cessation of payments as provided in subsection (a).

AMENDMENT TO UTAH ENABLING ACT

SEC. 13. Section 6 of the Act of July 16, 1894 entitled "An Act to enable the people of Utah to form a constitution and State government, and to be admitted to the Union on an equal footing with the original States (28 Stat. 107, 109) is amended by inserting at the end thereof after the word "domain" the following: "Lands granted for the support of the common schools (and any other lands exchanged for such lands under the Utah Federal and State Land Management Improvement Act of 1984 or otherwise) may be managed by the State under such multiple use land management practices as the State deems appropriate including use at less than fair market value for public purposes by agencies of the State and its political subdivisions.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 14. There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

○

II

98TH CONGRESS
2D SESSION

S. 2949

To improve the land ownership patterns and management of State and Federal lands in the State of Utah and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 10 (legislative day, AUGUST 6), 1984

Mr. GARN (for himself and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To improve the land ownership patterns and management of State and Federal lands in the State of Utah and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Utah State and Federal Land Management Improvement Act of 1984".

FINDINGS AND PURPOSES

SEC. 2. The Congress finds that as a result of land grants made by Congress in the Enabling Act for the State of Utah (28 Stat. 107), land ownership patterns in the State of Utah unnecessarily increase the burden of land management for the State Government on lands it owns and make it difficult for the Federal Government to manage lands it owns within the State of Utah. It is in the public interest that comprehensive adjustments in these land ownership patterns be made. Because of the magnitude of this land adjustment, it is appropriate that the adjustment be made by Congress rather than relegating the problem to resolution through slower and more costly exchange processes authorized by other Acts.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(a) "Secretary" means the Secretary of the Interior.

(b) "State" means the State of Utah.

(c) "Governor" means the Governor of the State of Utah.

(d) "Federal land" means any land or interest in land owned by the United States, but does not include Indian tribal or trust land.

(e) "State land" means any land or interest in land owned by the State of Utah.

(f) "System" means the National Park System, the Wild and Scenic River System, the National Wildlife Refuge System, the National Trails System, the National Wilderness Preservation System, Military Reservations, and public lands as defined by the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(g) "Rights" means valid existing rights and privileges granted to a person under applicable law, and include but are not limited to, mining claims under the general mining laws of the United States, grazing permits and leases and written user agreements appurtenant thereto, mineral leases, State metalliferous mineral leases, rights-of-way, special use permits, and other written authorizations to use specific lands.

(h) "Lands" includes surface and/or subsurface interest in land.

EXCHANGE OF LANDS

SEC. 4. (a) There shall be conveyed to the State of Utah the Federal land identified in legal land descriptions entitled "Federal Lands Conveyed to State" and designated for conveyance to the State on the map entitled "State of Utah, Project BOLD—Land Consolidation and Exchange Proposal" dated July 24, 1984. A copy of the map and legal land descriptions shall be on file and available for public inspection in the offices of the Bureau of Land Management in the State of Utah and in Washington, District of Columbia. Such conveyance shall be effective on the occurrence of all of the following, with the exact time and date of conveyance being the time and date that the approval of the Attorney General of the United States as provided for in subsection (5) of this section, is delivered to the Governor of the State:

(1) Notification to the Secretary by the State of Utah of State acceptance of the provisions of this Act.

(2) Publication in the Federal Register of legal land descriptions, approved by the Secretary, of the Federal land to be conveyed to the State by the Act;

(3) Publication by the Secretary, in the Federal Register, of legal land descriptions, prepared and approved by the Governor, of the State land to be conveyed to the Federal Government in exchange for the Federal land;

(4) Delivery to the State to the Secretary of documents of conveyance of the State land designated on such map and in the legal land descriptions published in accordance with subsection (a)(3) of this section for conveyance to the United States; and

(5) Delivery to the Governor and the Secretary of written approval by the Attorney General of the United States of the title to the lands described in documents of conveyance submitted by the State within two years of State acceptance under (a)(1).

(b) If the State does not comply with its obligations under subsection (a)(1), (3) and (4) of this section within five years of enactment of this Act, this Act shall become null and void. No extension of time shall be granted to the State.

(c) The Secretary and the Governor, after consultation and with concurrence of each, may issue documents, including but not limited to quit claim deeds, to correct clerical and typographical errors that may occur in connection with or as a result of the lands being exchanged under this Act. Such documents shall be duly recorded and a notice of the correction shall be published in the Federal Register.

(d) Except as provided in this Act, the conveyances made by or pursuant to this Act shall contain no terms, conditions, convenants or other provisions that may encumber, affect or in any way impact the title that is transferred.

(e) All lands acquired by the United States pursuant to this Act shall, on acceptance of title by the United States, become a part of the system within which they are wholly located, without any further action by the Secretary. Any lands acquired by the United States that are not wholly within a system shall become a part of the public land system.

SHARING OF REVENUES ON EXCHANGED LANDS

SEC. 5. (a) Notwithstanding any other provision of law, all mineral revenues received by either the State of Utah or the United States on lands conveyed pursuant to this Act, except for those lands described in subsection (c) and except as provided under (e) of this section, shall be distributed 50 per centum to the State and 50 per centum to the United States. The 50 per centum distributed to the State shall be allocated as are other revenues received from State lands. The 50 per centum distributed to the United States shall be deposited in the general funds of the Treasury, and distributed in accordance with the provisions of section 35 of the Act of February 25, 1920, as amended (30 U.S.C. 191) and those funds paid to Utah under such distribution may be used by the State and its subdivisions as the State Legislature may direct. These provisions do not apply to any other law that provides for receipt or distribution for revenues under section 35 of said Act of February 25, 1920 as amended.

(b)(1) The State of Utah and the United States shall each be responsible for the collection and distribution of mineral revenues of lands each acquires and each will bear all attendant administrative costs.

(2) Revenues shall be distributed by each entity to the other not later than thirty days from the last business day of the month in which such moneys are received.

(3) The United States and the State of Utah shall each report to the other on the mineral activity that occurred on the exchanged lands during the reporting year including but not limited to any leases or permits that may have been issued and the amount of revenues generated. The report shall be submitted annually at the end of each entity's fiscal

year beginning with the year in which the conveyances prescribed by this Act become effective. Within six months after the effective date of said conveyances, the Secretary and the Governor, or their authorized representatives, shall establish the format for the reports which shall be used by both entities for their reports.

(c)(1) The provisions for distribution of revenues in subsection (a) of this section shall not apply to those lands referred to in section 4 of this Act that are identified on the supplemental map entitled "State of Utah, Project BOLD—Section (5)(c) Lands" dated July 24, 1984 and in the legal land descriptions appended thereto entitled "State of Utah, Project BOLD—Section (5)(c) Lands". This map and land descriptions shall be on file and available for public inspection in the same manner as is required for the map referred to in section (4)(a) of this Act.

(2) Notwithstanding the provisions of section 5(a) of this Act, the State of Utah shall be entitled to retain all mineral receipts on lands conveyed to it under section 4 that are referenced in subsection (c)(1) of this section, with no distribution made to the United States.

(3) If at any time after the enactment of this Act, mineral development is permitted on those lands described in subsection (c) of this section which were conveyed to the United States, the revenues from such mineral development shall be

subject only to the provisions of section 35 of the Act of February 25, 1920 as amended (30 U.S.C. 191) notwithstanding the provisions of 5(a) of this Act.

(4) Distribution of mineral revenues under subsection (a) of this section shall commence for those lands within Bureau of Land Management wilderness study areas or for lands conveyed in exchange for those lands within wilderness study areas, as identified on the map and in legal land descriptions as referenced this subsection, when and if such wilderness study area is released from wilderness review or the Congress has not designated such area as wilderness before December 31, 1995, whichever should occur first.

(d) Revenues received from State of Utah issued metalliferous leases and from Federal leases issued to replace State metalliferous leases on lands conveyed pursuant to this Act shall not be subject to distribution under (a)(1) of this section beyond ten years after the date of conveyance.

PROTECTION OF RIGHTS

SEC. 6. (a) All conveyances pursuant to this Act shall be of both the surface and subsurface estates, where both are owned by the disposing entity including any improvements thereon. All lands conveyed pursuant to this Act shall be managed in accordance with the laws and regulations of the acquiring entity, and the provisions of subsection (b) of this section.

(b) All conveyances pursuant to this Act shall be subject to all rights as defined in section 3(g) of this Act. The acquiring entity shall manage those rights recognizing the benefits and privileges appurtenant thereto under the laws and regulations of the granting entity. However, in the management of those rights, the acquiring entity shall also fully comply with all applicable Federal laws and regulations in the case of the Secretary and applicable State laws and regulations in the case of the State. In the event of a conflict between the laws of the entity from whom the right was obtained and the laws of the acquiring entity, the laws of the granting entity shall prevail. Nothing herein is to be interpreted as a repeal of any Federal or State statutes.

(c) Following the exchange provided for by this Act, and in order to bring administration of lands under one system of law, a holder of rights shall have the right to convert those rights to equivalent new rights under the laws of the acquiring entity. Also, the Secretary, as to those lands acquired by the United States, and the Governor, as to those lands acquired by the State, may begin negotiations with the holders of rights, for the purpose of substituting for those rights equivalent new rights as provided for by the laws and regulations of the acquiring entity.

(d) All renewals or extensions of rights by the acquiring entity shall be renewed or extended by the issuance of a right in accordance with the laws and regulations of the acquiring entity.

(e) Nothing in this Act or in the exchange of lands pursuant to this Act shall relieve the holder of a right of the obligations to fulfill responsibilities required by the right.

PROTECTION OF GRAZING RIGHTS

SEC. 7. In connection with Federal and State permits and leases for domestic livestock grazing on lands affected by this Act:

(a) The State shall assume all rights and duties of the United States under each Federal grazing lease or permit providing for domestic livestock grazing on Federal lands conveyed pursuant to this Act to the State. Each such lease or permit shall be honored and enforced by the State of Utah under the existing Federal permit or lease terms and applicable Federal law and regulations. Upon the expiration or termination through no fault of the lessee or permittee of such lease or permit, the lessee or permittee shall be entitled to a right-of-first refusal for the issuance of a State of Utah grazing lease or permit for the lands to which such Federal lease or permit applied, maintaining any written user agreements appurtenant thereto which existed prior to the exchange.

(b) The Secretary of the Interior shall assume all rights and duties of the State under each State grazing lease or permit providing for domestic livestock grazing on State lands which are conveyed pursuant to this Act to Federal ownership. Each such lease or permit including written user agreements appurtenant thereto shall be honored and enforced by the Secretary under the existing State permit or lease terms and applicable State law and regulations. Upon expiration of the permit or lease, the provisions of section 6(d) of this Act shall apply.

(c)(1) Any Federal or State permit issued before the date of enactment of this Act to make any range improvement on lands conveyed under this Act shall remain valid following such conveyance.

(2) Title to, any interest in, any range improvement held by the United States or the State on any lands exchanged under this Act shall be transferred with such lands.

(3) Nothing in this Act shall operate to divest title to, or any interest in, any range improvement held by any person on lands exchanged under this Act.

(d) In any instance where State lands are used by a grazing permittee to meet the base property requirements for a Federal grazing permit or lease, and those State lands are conveyed to the United States pursuant to this Act, such permit or lease shall remain in effect for the term of the lease or permit. The holder of such permit or lease shall be entitled, pursuant to section 6(d) of this Act, to the issuance of a new Federal lease or permit at the time of the renewal of the original State permit or lease. A grazing permit or lease subject to the provisions of this section shall not be assigned, transferred or conveyed, except by descent, unless new base property is acquired for the permit or lease. A grazing lessee or permittee subject to the provisions of this section may meet Federal base property requirements with other base property and upon meeting such requirements, the limitation on transfer contained in this section shall cease to apply. However, nothing in this section shall provide the permittee or the lessee greater privileges than he enjoys prior to the conveyance under the State permit or lease.

PROTECTION OF HARDROCK MINERAL RIGHTS

SEC. 8. In connection with valid existing claims established under the general mining laws of the United States and all rights associated with such claims and leases issued by the State for metalliferous minerals on lands affected by this Act:

(a)(1) If the owner of a mining claim established under the general mining laws of the United States converts the claim to a preferential, noncompetitive State of Utah mineral lease, sale permit, or other disposition under State law, such claim and all associated rights shall be extinguished.

(2) Any such valid existing claim which is not converted under paragraph (1) of this subsection shall be administered by the State under the general mining laws of the United States.

(3) Upon abandonment, relinquishment, declaration of invalidity, or conversion in accordance with paragraph (1) of this subsection of any existing claim, the Governor may take such action as is necessary to clear any encumbrance on the State's title which is associated with such claim.

(4) the Secretary shall cooperate with the State of Utah in administering such claims and rights by providing information to the State on such claims and through mutual agreement, providing administrative expertise.

(5) If any lands acquired by the State under this Act are patented under the general mining laws of the United States or if existing claims under such laws encumber the State's title to such lands for more than ten years after the enactment of this Act, the State may select Federal lands of approximately equivalent value elsewhere in the State in lieu of such lands. Applications for such selections shall be processed in a timely manner by the Secretary, and upon receipt of such in-lieu lands, the State shall relinquish to the United States any claims to title and all rights to those lands for which the in-lieu selections were made.

(b) If State lands conveyed to the Secretary are under lease to any person under a State metalliferous mineral lease, upon conveyance of such lands the Secretary shall assume all rights and duties of the State under such lease.

(c) State lands conveyed to the Secretary pursuant to this Act shall be open to location, entry, and patent under the general mining laws of the United States pursuant to applicable Federal laws and upon the issuance by the Secretary of an opening order.

(d) For the lands acquired by the United States pursuant to this Act which are under State metalliferous lease, the Secretary of the Interior is authorized to issue leases for the exploration and development of minerals that would be otherwise administered by the Secretary under the provisions of the general mining laws. Such leases may be issued only to those persons who hold a lease for those minerals from the State on the date of enactment of this Act. Such leases shall be issued in accordance with appropriate provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181, et seq.) and pursuant to such rules and regulations as the Secretary deems appropriate.

PROTECTION OF OTHER MINERAL RIGHTS

SEC. 9. In connection with mineral rights other than those acquired under the general mining laws of the United States affected by this Act:

(a) The State shall assume all rights and duties of the United States under all Federal mineral leases on lands conveyed to the State pursuant to this Act. All rights, terms, and agreements under such leases (including authorizations for easements, facilities, operations, or other appurtenances on such lands) shall remain in effect after such conveyance except that such rights, terms, and agreements shall be managed and enforced by the State. The rents, royalties, fees, and other payments formerly due the United States under such terms shall be payable by the lessee to the State. The leaseholder shall be entitled to lease extension, renewal, and other administrative action as provided under Federal law, regulations, and the lease agreement.

(b) The Secretary shall assume all rights and duties of the State under any State of Utah nonmetalliferous mineral lease on lands conveyed to the Secretary pursuant to this Act. All rights, terms, and agreements under such lease (including authorizations for easements, facilities, operations, or other appurtenances on such lands) shall remain in effect after such conveyance, except that such rights, terms, and agreements shall be managed and enforced by the Secretary. The rents, royalties, fees, and other payments formerly due the State under such terms shall be payable by the lessee to the United States. Nothing in this section shall prohibit the State from imposing taxes or fees which otherwise would be applicable to minerals subject to a Federal lease.

(c) The State shall assume all rights and duties of the United States under each Federal free use permit, sales contract, and other agreement or permit authorizing disposal or use of common variety minerals from Federal lands conveyed to the State pursuant to this Act. Each such permit, contract and other agreement shall be administered by the State under the terms thereof in effect at the time of convenance and shall be extended, renewed, and subject to such other administrative action as is provided in the permit, contract, or agreement. Any fees, rentals, or payments due under the permit, contract, or agreement shall be payable to the State.

(d) The Secretary shall assume all rights and duties of the State under each State lease, contract, or agreement authorizing disposal, use, or sale of common variety materials from State lands or from State-owned mineral rights conveyed to the Secretary pursuant to this Act. Each such lease, contract, or agreement shall be administered by the Secretary under the terms thereof in effect at the time of conveyance. Any royalties, fees, rentals, or payments due under the lease, contract, or agreement shall be payable to the Secretary.

PROTECTION OF WATER RIGHTS ASSOCIATED WITH PROPERTY

SEC. 10. In connection with water rights affected by this Act:

(a) Water rights appurtenant to the lands conveyed pursuant to this Act, including existing water rights which have been acquired by the United States or the State, shall be conveyed with the land. Nothing contained in this section shall affect private water rights.

(b) Nothing in this Act shall expand or diminish Federal or State jurisdictions, responsibilities, interests, or rights in water resource development or control, or displace, supersede, limit or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States and the United States.

RIGHTS-OF-WAYS AND SPECIAL USE AGREEMENTS

SEC. 11. In connection with rights-of-way and special use agreements affected by this Act:

(a) The State shall assume all rights and duties of the United States under all Federal right-of-way and special use agreements on lands conveyed to the State pursuant to this Act. All such rights and agreements shall remain in effect after conveyance except such rights and agreements shall be managed and enforced by the State. The rents, fees, and other payments formerly due to the United States under such terms shall be payable by the holder to the State.

(b) The Secretary shall assume all rights and duties for each right-of-way and special use agreement issued by the State and in effect at time of enactment of the Act upon State lands conveyed to the Secretary pursuant to this Act. Such agreements shall be managed and enforced by the Secretary in accordance with their terms and for the purposes for which the agreement was executed. The rents, royalties, fees, and other payments formerly due the State under such terms shall be payable by the holder to the United States.

PROTECTION OF VALUES, RESOURCES, AND USES

SEC. 12. Except as otherwise provided in this Act, the Secretary shall manage lands acquired by the Secretary pursuant to this Act consistent with Federal law, and the State shall manage lands acquired by the State consistent with State of Utah law. The State shall recognize and be sensitive to existing values, resources, and uses, including: forage, water and habitat for domestic livestock and fish and wildlife; access to and opportunities for outdoor recreation; mineral resource exploration and development; the quality of ecological systems; and scientific, historical, and archeological values.

PAYMENTS IN LIEU OF TAXES

SEC. 13. (a) Payments by the United States in lieu of taxes pursuant to the provisions of chapter 69, Payment for Entitlement Lands, of title 31 of the United States Code shall cease as to lands conveyed to the State at the end of the second fiscal year commencing after the completion of the exchanges pursuant to this Act.

(b) Effective as of the second fiscal year commencing after said completion of the exchanges, the United States shall make payments in lieu of taxes on State lands acquired by the United States pursuant to this Act to the extent authorized by said chapter 69 of title 31 of the United States Code, except that the provisions of section 6902(b) of that Act shall not apply. Initiation of payments under this subsection shall coincide with the cessation of payments as provided in subsection (a).

AMENDMENT TO UTAH ENABLING ACT

SEC. 14. Section 6 of the Act of July 16, 1894 entitled "An Act to enable the people of Utah to form a constitution and State government, and to be admitted to the Union on an equal footing with the original States (28 Stat. 107, 109) is amended by inserting at the end thereof after the word "domain" the following: "Lands granted for the support of the common schools (and any other lands exchanged for such lands under the Utah State and Federal Land Management Improvement Act of 1984 or otherwise) may be managed by the State under such multiple use land management practices as the State deems appropriate including use at less than fair market value for public purposes by agencies of the State and its political subdivisions.".

AUTHORIZATON OF APPROPRIATIONS

SEC. 15. There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

○

Senator **Wallop**. Now lest that alarm Governor Matheson about the 3 minutes, we have never been able to discover a way to limit any politician, so we don't even try. Neither your colleagues nor the administration witnesses have that limit. It is the public testimony that has the limit.

The first witness is the senior Senator from Utah, Jake Garn.

STATEMENT OF HON. JAKE GARN, A U.S. SENATOR FROM THE STATE OF UTAH

Senator **Garn**. Thank you very much, Senator Wallop.

At the outset I wish to thank you for taking the time during this hearing or during this closing rush of Congress to hold a hearing. I appreciate your courtesy to me, the whole Utah delegation, and also to Gov. Scott Matheson.

I am particularly pleased that today the formal legislative process leading to a more sensible and productive management of State and Federal lands in Utah is finally beginning.

I am sponsoring Project BOLD because I believe it is an excellent concept whose time has come. The package in front of the subcommittee today is a solid beginning.

The bill is not perfect, nor will it remain untouched by Congress.

My philosophy, Mr. Chairman, is a little different than some. It is like the banking legislation I have pushed through the Senate in each of the last two Congresses. I have enough faith in the legislative process that I am comfortable placing a package on the table and building on it from there. I see no reason why Project BOLD should be any different.

There are still unresolved issues in this bill because whenever someone has the courage to try something new, there are usually unexpected bugs that have to be worked out, but I am willing and prepared to listen well to anyone to demonstrate that a portion of the bill is wrong, won't work, or that it is missing something all together. That is what the legislative process is all about.

Those who follow me today will explain the bill's contents in much more detail. I will explain why I believe it is needed.

Three years ago with my support, Gov. Scott Matheson began crafting Federal/State land exchange which today is the legislation we call Project BOLD. It is a bold initiative because it stands to set a precedent for every other public land State whose 19th century checkerboard land patterns are virtually useless in the 1980's and for the foreseeable future.

The current system was established for the express purpose that these checkerboard lands be used for support of common schools, in other words, so that revenues derived from grazing, mining, recreation, and other activities would educate our children in our public schools. Today with less than 3 percent of the school budget in Utah generated by State lands, the checkerboard system is a flop. Just as embarrassing, it is the way in which the State has been shoved around and subjected to every conceivable management whim of Federal land managers.

During the waning days of the Carter administration, this big brother attitude reached its peak. In December 1980, former Secretary of the Interior Cecil Andrus, over the strenuous objections of the State, declared surface mining within southern Utah's Alton Coal Fields unsuitable because the proposed mining activity was visible from within Bryce Canyon National Park. The effect of this decision was to deny Utah any benefit from the numerous scattered State sections in this very attractive low-sulfur coal area; 12,000 acres of State coal lands and over 5,000 acres of existing State coal leases were rendered undevelopable by the unilateral Federal decision. Those State sections surrounded by Federal unsuitable land have been preempted from development because they are simply too small to support a mining operation without the development of the adjacent Federal coal deposits.

The Andrus decision, no matter how questionable, may in fact be consistent with Federal environmental law, although the courts have yet to finally determine other aspects of the case. Nevertheless, it clearly impedes the Utah State Enabling Act which is also Federal law, and the provision therein that exhorts the State to develop its lands for the necessary benefit and operation of the public schools.

Federal trampling of the legitimate and legal rights of sovereign States will be brought to an end if States are allowed to manage their own lands. This is only one of a number of examples where my State has been dragged along behind the Federal land managers and left without control of its resources through no fault of its own.

Project BOLD as proposed will resolve this problem for Utah. By consolidating 5,000 scattered State sections into approximately 40 to 50 large, usable blocks, the State will be able to achieve the goal of better management efficiency over its lands, and a much greater probability that under State control, these lands will be developed.

I am committed to pushing this concept in Congress for as long as it is necessary to come up with a package that is fair both to Utah and Federal taxpayers, and frankly, I like the proposal before the subcommittee today.

However, there are parts of it I disagree with, and that is why I am emphasizing the concept of what we are trying to achieve and not the specifics of the legislation, and also emphasize the fact that this is only the beginning of a legislative process, the first hearing. We will have to start over again next year because this is the end of the Congress, but I would hope that those who oppose the specifics of the legislation would recognize the importance of the concept and recognize how difficult it is for a State that is two-thirds owned by the Federal Government—a lot of people just don't understand what that means. The Governor has been Governor over a third of the State. That's all. Two-thirds has been run by the Federal land managers for better or for worse, and then locked up. For anybody who wishes to look at that map, it is a very telegraphic picture of the State land sections and how they are surrounded and rendered virtually unusable by the two-thirds of the Federal lands that keep access away from them and keeps us from being able to utilize our own lands, so today's hearing is a significant step in the right direction.

I commend the Governor and his able staff for their persistence in bringing this issue to Congress' attention.

I thank the chairman very much, and I am pleased to introduce to the committee—he is not unknown to you—but very pleased to have the Governor of the State of Utah with us today, Scott Matheson.

Senator **Wallop**. Thank you. Congressman Hansen is here and we will have his testimony first, Congressman Nielson, and then we will have the Governor, but let me just say that when any Western State looks at its shared land mass, and it would be almost more appropriate to call it a shared land mess, this kind of an attitude and this kind of a concept is clearly what should have been started by Western governments at the beginning of the century not three quarters or three fifths of the way through it.

I, too, salute the concept. I know that we are going to have difficulty in trying to satisfy every last innuendo and self-interest and perceived self-interest and perceived public interest and public interest and all those things, but it clearly is worth trying to do because it is, as you say, no longer an efficient way to run either the Government's lands, the State's lands, or the private lands that exist in our Western States. Utah is to be saluted.

Senator **Garn**. Mr. Chairman, I made a comment during the Panama Canal debate, if we gave the Panama Canal back over to Trujillo, we ought to at least let the States have their lands back, and I didn't get too far with that at the time, but if Trujillo got his land back, I think it is time we got our lands back so we can use it more profitably.

Senator **Wallop**. Congressman Hansen.

STATEMENT OF HON. JAMES V. HANSEN, A U.S. REPRESENTATIVE FROM THE STATE OF UTAH

Mr. **Hansen**. Thank you, Mr. Chairman. We appreciate the opportunity from our side to come over and express our support for this particular piece of legislation. I know the importance of it, and in the last 2 or 3 days of this session that is very nice of you to take this time.

Also I appreciate Dr. Carruthers from the Department of the Interior who is known for the excellent work he has done and the cooperation he has shown in the State of Utah and by the members of the delegation. As Senator Garn pointed out, I guess maybe we have two Governors—the Director of the BLM who is sitting behind me, and I guess he administered 70 percent of the grounds of the State of Utah and did an excellent job of it. These people together have worked in a cooperative manner.

Let me say, having served in the State legislature for 8 years, I began to appreciate the many problems that the land managers in Utah face in effectively managing the State sections that are scattered throughout the State of Utah.

I also began to see where Utah could benefit economically from the blocking of these State sections into larger, more managable tracts. I would like to support what Senator Garn said. I don't think people realize what a checkerboard area we have. It is not just the mining people who will testify. It is not just the grazing people. It is all of us. Senator, I know in your State of Wyoming and the other States, we all have a real interest in this because this is plowing new ground. It is a prototype of what we are going to have in many States. It is somewhat different from a wilderness bill where we know what we are dealing with. I think what happens in Utah is going to happen in many of our Western States.

I would hope we can all work together very closely and push it in the next session of Congress. I was very enthusiastic when early in 1981 Governor Matheson announced he had come up with his Project BOLD proposal and it had been favorably received by the Secretary of the Interior, Jim Watt. I have followed closely the process that the Governor has pursued in working out the details of the bill before us today, and we have a companion bill introduced in the House. He was very open in negotiating with the Department of the Interior, the Utah delegation, all manner of interest groups and citizens of the State.

This bill comes very close to solving most of the problems that were raised by those involved in the process.

Why is Project BOLD necessary? Right now the State has more than 5,000 1-mile square sections scattered throughout the State. Utah's professional land managers will freely admit that they often don't know what they are, what is in them, or even in some cases where they are. These land managers, good though they may be, are not able to fully manage the lands. They simply respond to outside requests for leasing, development proposals, et cetera.

It will be interesting, Mr. Chairman, in another week or two the deer season will start, and many deer hunters have written me and say they can't tell the difference between private lands and Federal lands and State lands and they have to have a surveyor with them, and when we go out and deer hunt we find many areas of the State that are closed. I could name a name. You have areas in private lands that are closed that run right across the public lands and somewhat cut out the use of the public lands. In effect, we have ground that is owned publicly that is used for private purposes, scattered all through the State, and you will hear the lament of all the hunters now in the month of October as they talk about how they are getting had on this particular thing, and my heart somewhat goes out.

Senator Wallop. My experience with hunters is if they don't have that to lament about, they will have something to lament about.

Mr. Hansen. That is probably true, Mr. Chairman.

In addition, State lands are often held hostage, as talked about—for example, I think Senator Garn talked about that. The Department of the Interior and Cecil Andrus decided against development of a major coal project which has been discussed already.

Passage of S. 2949 will help to solve these problems. I recognize this bill is not perfect. I recognize there will be many changes. Many of my colleagues are watching this very closely as I am sure they are here in the Senate, and I am sure it will be improved upon as it passes through the legislative process.

I encourage the subcommittee to be openminded as it listens to those who will testify today in support of or in opposition to the bill.

Before closing, I would like to take the opportunity to express my admiration for Utah's Gov. Scott Matheson. Scott has been a great

Governor of the State. I served as speaker of the house under this man. I know many things he has done—I believe that this Project BOLD proposal may be the most far reaching and will have the most impact on the Nation, especially the West, as a whole, and I congratulate the Governor for having the courage to plow new ground.

Thank you very much, Mr. Chairman. I appreciate it.

Senator WALLOP. Thank you. Has Congressman Nelson come in? I don't see him.

Governor Matheson, I welcome you here to the table, and we will just begin. I reiterate my admiration for the concept, the idea and the energy which has gotten us to the point that it has. It is clearly true that people who do not live in public land States have absolutely no concept of what the public lands are about. They view them at the very least as large stretches of public ranches that you can do with as a Federal land manager more or less what you please, and what they please is what they hope you please. This concept of commingling is the same thing I know that we face with water in that somehow or another there is the idea that you cannot separate public water from State water, public land from State land, when they all mix with each other, and the complications that arise in the States and arise on the lands are much more severe than they need be.

If you are successful in the promotion of this idea, I think it will really be a model for the efficient use of these lands, so I know we are going to hear some complications before it is over, and that is to be expected, but I think they can probably be surmounted if everybody works.

I welcome you here this morning.

STATEMENT OF HON. SCOTT M. MATHESON, GOVERNOR, STATE OF UTAH

Governor MATHESON. Thank you, Mr. Chairman. I didn't realize that I was Governor of only a third of the State until I arrived here.

Senator WALLOP. That just shows you what Washington thinks of the State.

Governor MATHESON. My jurisdiction gets smaller here all of a sudden, which points up the real essence of why we are here—to talk about this idea of blocking up the State lands and exchanging them, but first of all let me express my personal appreciation to you for setting and holding this hearing. I know your schedule is busy, and I know that there are many others who have important pieces of legislation, and your willingness to hear the testimony on Project BOLD is very much appreciated.

I would like to express my thanks to Senator Garn for his support, Senator Hatch, and Congressman Jim Hansen. I appreciate their involvement and willingness to assume the opportunity in moving this ahead.

I would like to if I may, Senator, introduce my formal testimony. I must tell you it is so long and complicated that I doubt if anyone could stand to read it all the way through at one sitting, but may I introduce it for the record and visit with you a little bit about the bill?

Senator **Wallop**. By all means, yes; it will be as if you had delivered it.

Governor **Matheson**. Thank you very much. We have as a part of the hearing this morning, Mr. Chairman, a representative from the Department of the Interior, Assistant Secretary Garrey Carruthers. I would like to express my appreciation to him. He has invested a lot of his very valuable Interior time on Project BOLD, and all of the Department of the Interior has been very professional and helpful in putting this package together, and I want to express my appreciation to them.

There will be a panel of people who will talk about various pieces of the bill, and I won't attempt to try and fit in all of the details of what the bill proposes to do, but we will have those who will talk about the legislative role, the local government involvement, the role of the State landlord which is the manager of our public lands in our State, the process, and then the land selection and the valuation process which is so critical when you are dealing with a situation of this kind.

I would like to point out that the concept of blocking up millions of acres of land is something that hasn't been tried in any of the research that I have been able to locate, and so we are talking about plowing some new ground for public land States, and it is nice to come into a hearing with a Western Senator who comes from a public land State that understands the concepts and the means by which we survive in that environment.

We were fortunate enough in 1896 to convince the Congress that we ought to have four sections in each township instead of two. I think that is because of the population out in Utah of youngsters, and we needed a little extra and there was an interesting debate about whether or not Utah should only have two sections which was the customary practice as Western States came into the Union, and one of the Representatives from South Dakota got up and said why don't we give them four? They're not worth anything anyway, and that is how we got the four sections per township.

Interestingly enough, we started out with about 7 million acres. We are down to 3.6 million acres of State-owned land now, Mr. Chairman, and so since statehood we have disposed of more than half of our land inheritance. As Jake pointed out in his testimony, we are supposed to use those sections to raise enough money to educate all those kids, but the interesting thing is it supplies only about 3 percent of the school budget in the State of Utah. One of the reasons for that is we are very inefficient on how we manage those lands, and so we begin to examine the question of how we can efficiently and effectively put together a program which will allow the State to have a multiple use management, do all of the things that ought to be done with the public lands and protect them and use them properly with our existing land patterns of ownership. The tradition when we started was to homestead and use the lands and put them into private use, of course that policy was a good one at the time, but that basically is no longer the policy of the United States. FLPMA has changed all that. We don't dispose of the Federal public lands any longer except in limited areas, and interestingly enough, the State of Utah 30 years ago pretty much went to the idea that we are going to keep those State lands and we will dispose of them where it is appropriate, but basically we will keep them in the inventory and manage them in the public interest, so that is basically what we tried to do.

I got involved in this process when I was attempting to finish up the in-lieu selections. Utah had more acres than all of the rest of the public land-locked States in the West combined of in-lieu indemnity lands that hadn't been transferred to the State of Utah, and we had been fighting that for longer than any of us have lived. So we finally ended up going all the way to the U.S. Supreme Court and we lost that case on a 5-to-4 decision in 1981 and had to go back to the drawing board, and while I was looking at getting the indemnity problem solved, we got to thinking, how could we really do something worthwhile and become managers of our own destiny, and two things happened.

First of all, I sat down with the Department of the Interior and said will you help us get the in-lieu indemnity selections completed while I am still Governor? And by golly, we are going to complete the last transfer this fall, so there is an administrative success which I am more than pleased about, It is an indication of the way we have been able to work with our land manager in the Bureau of Land Management out in Salt Lake, Mr. Robinson, with the Secretaries the of Interior who have been here while we worked on this project, and with Mr. Carruthers, so we now administratively are doing something that nobody thought we could do.

Now we are at the point where we want to do something that most people also think we can't do, and that is Project BOLD. It doesn't have total support from everyone. It is a difficult thing, as you are so aware, Senator, to take a major piece of tradition, a major policy that has gone on longer than any of us can remember, and say hey, maybe we ought to look at a drastic change in how we do this. The minute you propose major change you run into the problem of overcoming tradition and trying on a new idea, and it causes concerns, and frankly, that is good, but I am hopeful that those who are opposing the project will recognize that we have attempted by the process we have followed to give everybody the most open shot at this piece of legislation as on any bill that we have ever processed in the State of Utah.

I think I can honestly tell you that the number of hearings and the openness and the scope of the investment of public time in this bill has been more than anything I have ever been associated with in all the years I have been Governor. In fact, we have even written a book on the subject which we disseminated through the public process. We have met with all of the local and the national interest groups, the users of the public lands, and have attempted to put together something that makes practical sense and let the State of Utah do its thing. We come to you after 4 years, 4 years of public involvement, and I realize that we are not going to pass a bill this session, but I am not going to be Governor after the first of the year, and having a hearing and making a record and putting down and telling publicly where we stand on this bill whether you like it or you don't like it is a very important part of the process, and I thank you again for allowing that to happen.

Now the bill is attempting to accomplish five things, six things really. We want to end up with the ability to manage our lands. Those 5,000 single sections out there are not managed by the State of Utah. We simply are defaulting our responsibility to those lands.

If the BLM has a grazing lease on the area surrounding the section, we have a grazing lease on the section. If it is used for recreation, we basically use it for recreation, but frankly, we have 2,500,000 acres that frankly we are not managing. This blocking up 47 blocks will allow the State of Utah to really be a land manager and go out and do the type of thing that we need to do. It also eliminated State holdings.

This is not something that is just for Utah. There is a reciprocal side, and the benefits will also flow to the Federal Government. All of the inholdings the State of Utah has in the national parks and other Federal holdings in Utah come out—incidentally, about half a million acres. That allows better Federal management of those lands and it allows the Federal Government to manage pieces, blocks of land, without the involvement of the State interest, and that allows for major deficiencies from their perspective as well.

We get rid of the conflict with federally protected areas in this exchange. We have taken into consideration local needs and local plans. You don't ignore the county commissioners and the mayors. They have to play a major part in how you manage your public land, as you know.

We have got to raise some more money somewhere to educate those kids, and while I am not advocating the extraction of every dime out of the land which is the public policy we must technically now follow, we want to go to a multiple-use management and do the right long-range planning and do the right thing and still make extra money at it, and I think we can. You take a block up of a mineral lease of land and put that lease to a third party. Sometimes it takes him 15 years just to get his land packaged together before he throws his shovel in the ground to start extracting the mineral or the ore or the coal. We will have those ready to go for those particular blocks that have mineral potential, but some are for recreation purposes, some for wildlife habitat, some for grazing.

We have not attempted to be selective about the uses. We have attempted to maintain the multiplicity of uses so that we really don't change the pattern of how we live in our State, and that is the result of the project. That is what Project BOLD has really attempted to do.

The bill itself creates a couple of problems I will quickly mention. When we first started out to do the blocking up, we decided we would attempt to do a value, to determine the value of the lands, and that is easy when you look at the surface, not so easy when you are trying to find out the value of a mineral estate, and under FLPMA you have to have that fair market value, and obviously, if you are going to do a block up of this size you have to come directly to Congress and do it outside of the FLPMA. There is no way that the fair market value question could be addressed within finite resources, so we attempted to go into various regions of the State that have like geology and try and assign values on the same type of resource, value on coal for value on coal, and those were the methods we used to try and arrive at a fair difference in the exchange of values. But one of the problems you have, Mr. Chairman, is you simply cannot be exact, 50-50, when you are talking about fair market value because it is an opinion.

Even the best professional opinion can never be exact, and that bothered the Department of the Interior. They wanted to have a bill that we could use as a prototype for other public land States. If we are successful in Utah, Wyoming will likely want to look at this, and the Governors in the West are following this very closely, in fact a Western Governors Association resolution supporting the bill was passed. The important thing that we ran into is value, and so the Secretary of the Interior said I want to support you, but I can't go up to Congress unless I am satisfied that everybody gets a fair 50-50 deal on value, so we ended up adopting in the second bill the concept of revenue sharing, 50-50 split, so that all of the revenues from the lands involved, both Federal and State, will be split on a 50-50 basis so that no one will be shortchanged at all in terms of value.

Now there are some acres in which there is no revenue splitting because they are lands which would not be developed for revenue purposes, and a good example are inholdings in a park. They are just not the kind of property with which the Federal Government is going to produce revenue, so those were traded out and Utah would retain all of the revenues from lands of that type, but we have done that in only those areas where the facts would dictate in a logical way that is the way the solution ought to be arrived at.

The idea of rights, one of the things we didn't want to do is interfere with people's rights on the public lands, both Federal or State, so we have attempted to weave into this bill—and we have looked at I don't know how many alternatives, Mr. Chairman. What we are trying to end up with is everybody having the same rights now that they would have with the change in the statute, and we have deliberately attempted to use words, and if we failed we will take a look at some better words, but we have tried to protect the grazing rights, we have tried to protect the leasehold rights, and we have tried to protect the mining rights.

Now in terms of leasehold rights that are not mining claims and grazing rights, those are quite compatible because the systems mesh well. We have a leasing system in both areas for permit systems, and I think that the exchanges there will produce no serious difficulty in making each party whole.

When you move over into the mining side, you run into the interesting problem of the State of Utah having a leasing system for hard rock metals and the Federal Government having a location system, and location systems and leasing systems don't fit together quite as nicely as you would hope, and boy, you have to scratch your head a little bit to try and find a way to make sure that everybody is protected! And we have arrived at a proposal for mining claims which I think is a fair one.

Interior doesn't particularly like it, I suspect. Some of the mining people don't particularly like it, but we have attempted to be as fair as we possibly could, and so, on the Federal claims, the transfer of Federal lands over to the State of Utah which has mining claims on them, they will be administered by the State as mining claims. If they wish, they can convert those to a State lease, but they don't have to.

We found, interestingly enough, that most of the mining people, at least many of them, like to go to a State lease because it is a sure thing and they know they have got a guarantee. They do have to pay a rental on it, and they don't on the mining claim, but the rental is hardly something that dissuades major business people from pursuing the development of that resource.

Now if they want to convert to a State lease, they can, but if it is abandoned, of course the State would have clear title.

Now let's assume nothing happens for a period of 10 years. Either you go to patent or you don't, or there is a problem with respect to resolving the mining claim. We are proposing then that the State of Utah would turn back those lands and have a chance to select additional free land like we do with indemnities.

Some people don't like that. The State land board adopted that policy. I think it is a pretty fair one, and some people in the mining arena are saying, well, the State will context all these mining claims, and the answer to that is, Mr. Chairman, if we can go back and get different land in 10 years, there clearly is no incentive for the State to go out and invest thousands of man-hours attempting to beat people off their mining claims, and we don't intend to do that anyway. I was a mining lawyer for many years and support the location system. We don't want to disturb it. We want to keep it intact, and frankly, we think we can come up with a pretty reasonable way to do that.

I would like to conclude by indicating that the payment in lieu of taxes was a problem, but we passed a bill in Utah which indemnifies every county; to the extent that property is taken out of the Federal ownership and put in the State ownership, we guarantee them as long as the Federal money on PILT continues, we guarantee that they will be held harmless for that exchange.

Lastly, there is a change in our enabling act. We want to have the authority to dispose of some lands to public authorities for purchase at less than fair market value, and under our present policy, State policy, we simply cannot do that, so we have what I think is a fair bill.

It has protected everyone's right as near as we can do so, and the process at this particular point is to listen to all of those who have concerns about it and to explain the bill in more detail.

May I conclude by asking that the testimony of—I have an interesting situation. I have got the testimony from the Democratic candidate for Governor, Mr. Wayne Owens, and I would ask that his testimony favoring Project BOLD be made a part of the record, and the Republican gubernatorial candidate who is here to testify personally, so we have got them here and I hope you will extract a commitment out of the Republicans to support the bill, Mr. Chairman, when he testifies, and I have a statement of the Utah Wildlife Federation, and the Watchata Chapter of the Society of American Foresters. May I offer their written statements for the record?

Senator WALLOP. By all means; they will be included.

Governor MATHESON. I will remain, Mr. Chairman, at the hearing this morning and will be available, of course, at your pleasure.

If I can respond to any questions or you have any concerns later on, I will be very pleased to be as helpful as possible and respond to whatever you would care to have me do.

Thank you very much.

[The prepared statements of Governor Matheson, Mr. Owens, Mr. Gordon, and Mr. Stephenson follow:]

Statement By
The Honorable Scott M. Matheson
Governor of Utah
On S. 2949
Before the Subcommittee on Public Lands and Reserved Water
Committee on Energy and Natural Resources
Senator Malcolm Wallop, Chairman
October 2, 1984

Mr. Chairman, I am pleased that you have scheduled today's hearing on S. 2949, the Utah State and Federal Land Management Improvement Act of 1984. This is an historic occasion for me, for the State of Utah, and, I believe, for public land management. Work on the legislative proposal before you began 4 long years ago. Skeptics told me that this day would never come, that the idea of exchanging and consolidating thousands of scattered sections of state land was too novel -- too bold, if you will -- to ever receive serious Congressional consideration.

But we proceeded undaunted, through hundreds of meetings and around dozens of roadblocks. In those early days, one State official dubbed our exchange proposal "Project BOLD" and, for better or worse, that name has stuck.

The concept of totally realigning a state's land ownership pattern is indeed, bold, and the legislation before you represents tens of thousands of hours of work by State officials, the Interior Department, local government, the mining community, public land users, conservation groups and our Congressional sponsors and their staffs. As a result of that work, we have made great progress with our Project BOLD legislation. However, without enactment of federal legislation, those efforts will be unfulfilled. My top priority in my final year as Governor of Utah was to see the beginning of the Congressional process. Today's hearing will begin to establish a record and I trust, the momentum for action by the next Congress.

I want to publicly thank you Mr. Chairman, the Chairman of the full Committee, Senator McClure, Senators Johnston and Bumpers, Senator Hatch, Congressman Hansen and particularly Senator Jake Garn for their support of this proposal and their help in scheduling this hearing.

Today's hearing is scheduled on two bills, S. 2471 and S. 2949. S. 2471 was introduced in March. In the months following introduction, we continued to refine the proposal, and determined that several modifications should be made in the bill. S. 2949 contains those changes and I would ask that it be the vehicle for the Committee's consideration.

The purpose of S. 2949 is to consolidate into larger, more manageable units the 5,000 State sections. Of the State's total 3.8 million acres, 2.5 million acres of isolated one section parcels, now scattered throughout the Federal estate in Utah, would be blocked. Most of the lands involved are among Bureau of Land Management lands. However, about 320,000 acres are within national parks, monuments, and recreation areas, Indian reservations, military reservations, and areas proposed for wilderness designations or under wilderness review. Through Project BOLD, the State would withdraw entirely from Park lands and most other federal reservations.

The Federal Government would benefit through the removal from its lands of the checkerboard of State-owned inholdings. The State of Utah would benefit by receiving for its scattered inholdings consolidated blocks of land affording the State the opportunity to fully assume its proper role as steward and manager of its lands and resources. S. 2949 would by Act of Congress effect land conveyances to accomplish this purpose and would establish procedures to protect all valid existing rights and to assure protection of the financial interests of both the Federal and State Governments.

Any proposal of this magnitude is bound to generate controversy. We have invited and encouraged all affected and interested parties to participate in the State process under Project BOLD and have solicited comments and suggestions repeatedly as progress has been made. Let me assure the Committee that we have been diligent in seeking out affected interests, listening to concerns, and attempting to address those concerns fairly. I think we've done a good job, but the final word will be yours.

There are those who contend that the State is advantaged by having its lands divided into one section units and scattered through the Federal estate. It is a popularly held myth that the State, through its scattered inholdings, holds sway over Federal land management policies. While Utah has usually experienced good cooperation with the Department of the Interior, we have not leveraged Federal decisions through our State inholdings. Quite the contrary, the isolation of the State lands has largely meant that their management is accomplished by the surrounding Federal Government management policies.

Development of the State's mineral resources has often been possible only in conjunction with Federal mineral leasing. Where State sections are wholly within National Forests, National Parks, or other special use designation Federal areas, the flexibility for State land use has certainly been diminished. Blocking of State lands into larger units will provide the opportunity for the State to truly manage its lands and resources and for the Federal Government to manage its lands without having to work around State inholdings.

HISTORICAL BACKGROUND OF PROJECT BOLD

Like other Western States, Utah received land grants at statehood to provide revenue for the support of our public schools. The 1896 Utah land grant included four one square-mile sections scattered in each 36 square-mile township throughout the State. The pattern of the grant was designed to represent a cross-section of lands and resources. Revenues for the schools were to be generated as lands were developed or sold into private ownership.

It must be remembered that our national perspective regarding Federal land ownership and land values was dramatically different at the end of the last century. Utah was the first state to be granted four sections per township. Previously states had only received two per township. Instead of any furor over Utah receiving four, Congress seemed unconcerned. A Congressman from South Dakota when questioning granting Utah four sections per township finally remarked on the Floor of the House, "Oh, I think you ought to have it. That land is not worth anything to anybody else."

Conventional wisdom in the late 19th century foresaw continued western expansion with Federally retained lands being settled and eventually passing into private ownership. But, the unique nature of the arid West thwarted widespread homesteading. Lands retained by the Federal Government remained Federal lands with State "school" sections scattered among them in a checkerboard pattern.

Through the years, our views on public land retention have changed. With passage of the Federal Land Policy and Management Act in 1976, the Federal Government completed a reversal. Federal policy is now to retain lands in Federal ownership. Utah, similarly, has had a strong policy of retention for thirty years.

The existing pattern for most state landholdings today forms a checkerboard of "islands" surrounded by a sea of federally controlled lands. Efforts to carry out small exchanges of these Federal lands for State lands to meet site-specific objectives have become extremely difficult. Federal land exchange procedures are based upon a detailed determination of equal value. Establishing values, especially where speculative unknown mineral values are involved, requires expensive and time-consuming appraisal procedures, often including extensive core sampling and drilling. Some small State exchange applications have been pending more than 20 years but have not been processed because of the inability to economically determine values or due to other administrative roadblocks.

Frustrated by land management conflicts and the failure of the exchange process, I met with the Secretary of the Interior in early 1981 to discuss an innovative proposal aimed at resolving this confusing pattern of land ownership and management in Utah. The proposal, simply stated, was to consolidate and exchange Utah's scattered State sections for equivalent federal lands, reducing over 5,000 scattered State sections into approximately 40-50 State land blocks. Assuming that the State could develop an equitable exchange proposal in cooperation with federal land management agencies, both governments could achieve efficiencies in administration and more effectively manage their resources.

Since those discussions, the State has been committed to a land exchange to enhance and improve the utility and manageability of both Federal and State resources. Recognizing the inability of the administrative process to contend with this large-scale exchange proposal, the Interior Secretary agreed to assist the State in pursuit of a Congressional proposal.

Meanwhile, Utah and the Interior Department proceeded to complete the outstanding indemnity selections pending since statehood. Thanks to excellent cooperation from the Interior Department, the last indemnity selection will be completed before the end of the year. The indemnity selection lands serve as the land base upon which several of the State's proposed land blocks are built.

Utah is not alone in dealing with the problem of scattered State sections resulting from statehood lands grants. Most of the Western States experience the same situation and difficulties. They are watching this legislation with great interest. In fact, the Western Governors' Association and the Western States Land Commissioners, by resolution, have endorsed our proposal. While this bill has been prepared by and for Utah, we have been mindful that it will set a precedent for other states and the Congress in addressing a problem common to all Western States. I believe you will find that most of the bill's components can have satisfactory application to other states.

THE STATE PROCESS -- DEVELOPING THE EXCHANGE PROPOSAL

An early priority of Project BOLD was involvement of the broad constituency interested in land management policy. Our first step was creation of a broad-based Steering Committee to supervise early project development and research. In the fall of 1981, we held seven public "scoping" meetings across the State to solicit an early reaction to the exchange concept and to identify specific concerns of local elected officials, public land user groups, environmental groups, and the general public.

As a result of public comments, the State drafted "issue papers" covering resource values, criteria for land acquisition, disposition, and retention, grazing, state land management, and minerals. The draft papers were reviewed by a 150-member advisory council. Revised issue papers, as well as alternative state selection areas, were published in a discussion and alternatives document in the fall of 1982 (the green Project BOLD book) and distributed to interested parties in Utah and across the nation. That document was the subject of ten additional public hearings and numerous informal meetings with land users and interested citizen groups. Hundreds of comments were received on the document and used to formulate final decisions on key management issues and to refine the proposed land exchange. The public meeting transcripts are on file in Utah.

An essential part of the document released in the fall of 1982 dealt with the criteria by which specific land selections for exchange would be made. These criteria were developed through various issue discussions and alternative exchange proposals and provided the basis for selecting the initial areas for exchange and consolidation.

Specifically, our selections of lands for conveyance to the State reflected our desire to: enhance land management capabilities of both Federal and State governments, eliminate State inholdings within federal reservations, avoid conflict with federally protected lands such as wilderness study areas, reflect consistency with local plans and desires for use of public lands, increase the return to the school trust funds from State land revenues, and maintain the integrity of current land uses.

Those objectives are best clarified by some examples of proposed blocks within the exchange proposal. The BLM manages isolated landholdings in Rich County in northern Utah. By trading Rich County BLM lands for State sections elsewhere, BLM will be able to focus its management effort in a smaller area, increasing land management effectiveness and efficiency in northern Utah. In two instances the State intends to eliminate current State holdings within areas which need special management for unique wildlife populations -- for the desert tortoise, and for buffalo in the Henry Mountains -- in exchange for logical management units of equivalent resources outside of the habitat area. The State has similarly been sensitive to the needs of local government -- avoiding exchanges of lands identified for acquisition by local communities under various federal statutes. In the selection process the State has also attempted to minimize the impact on grazing allotments, though it is not always possible to observe precise allotment boundaries.

As we developed the exchange proposal, we were also cognizant of the impacts on long-term contributions to the school trust fund. The Federal Government granted school lands for that purpose. However, the State rejects the argument that the trust fund responsibilities require maximizing the short-term income from each individual piece of property, even if long-term values and other uses are sacrificed. In fact, the policies of the Board of State Lands and Forestry explicitly mandate the use of sound conservation practices to maintain the productivity of the land. New State land blocks resulting from Project BOLD can accommodate both revenue producing activities such as grazing, and non-revenue producing activities such as recreation and wildlife management.

Project BOLD avoids selections which would conflict with single-purpose Federal management responsibilities. The State selections will eliminate many historical State-Federal management conflicts and enhance the capabilities of both Federal and State governments to pursue their management strategies.

Illustrative of such circumstances is the proposed development of the Alton coal field in south central Utah. The Alton field includes economically attractive surface mineable lowsulfur coal. The Bureau of Land Management manages the Federal coal including some existing Federal leases while Utah also owns scattered State sections in the field.

In December of 1980, the Secretary of the Interior, responding to petitions alleging difficulties in reclamation, impacts on water resources and adverse impacts on nearby Bryce Canyon National Park, declared the easternmost portion of the field unsuitable for surface mining. Over 12,000 acres of State coal lands and over 5,000 acres of existing State coal leases were rendered undevelopable by the Federal decision. These State sections, surrounded by Federal "unsuitable" lands, have been pre-empted from development because they are simply too small to support a mining operation without the development of the adjacent Federal coal. While the decision not to develop the Federal coal is consistent with Federal law, it contravenes another Federal directive to the State of Utah represented by the school trust. At Alton, if the State sections were able to be blocked up outside of the Federal area designated as unsuitable for surface mining, both Federal and State Governments would have an opportunity to pursue their management objectives.

A comparison of the specific exchange and consolidation proposals with the existing land checkerboard reveals other important criteria. The State has made an effort to augment, fill in, and expand existing State land blocks to create logical management units of sufficient size to support a broad variety of uses. For example, several of the proposed blocks provide opportunities for recreational development, implementation of grazing improvement programs and augmentation of wildlife habitats. These types of investments are impractical on the current inventory of scattered sections. They are only possible when dealing with units of land of sufficient size to justify the required planning and development.

One of the principle motivations in seeking Congressional action on a statewide exchange has been the difficulty in concluding exchanges of State and Federal lands under the complex, costly, and time-consuming processes which currently govern land exchanges. Therefore, an essential element in making this exchange proposal a reality has been the development of a more flexible, but still credible basis for achieving fairness and equity in the exchange. The criteria that have guided us include seeking lands with multiple uses and resources, identifying State and Federal lands for exchange of comparable value, selecting lands appropriate for State school trust land management responsibilities, and preserving geographical diversity of State land ownership.

Preserving equal values in the exchange proposal has been approached in several ways. First, experts from the Utah Geological and Mineral Survey and the Division of State Lands and Forestry entered into consultations with the U.S. Geological Survey, Bureau of Land Management, and the Minerals Management Service in intensively addressing the valuation of properties potentially involved in the exchange proposal. Recognizing the impossibility of precise valuations, the we utilized existing data and knowledge to classify the lands and resources in Utah into categories of high, medium, and low resource potential for each major mineral resource. The decided that the best way to ensure equivalent value determinations was to break the State down into geographic provinces according to resource type and quality and market conditions. Lands proposed for exchange reflect approximately equivalent values for each resource within each of these provinces. This is a critical guiding criterion in the entire process. For example, if the State inventory currently includes 55,000 acres of medium quality coal in central Utah, the exchange proposal will leave the State with 55,000 acres of medium quality coal in central Utah, though in a different configuration.

Thus, Project BOLD does not comingle various land values. The proposal will not exchange oil and gas values in the Uintah Basin for enhanced coal holdings in Southwestern Utah, or uranium lands in southeastern Utah for grazing lands in the West Desert. Equity has been maintained both by resource type and by region.

Surface values are much simpler to estimate. BLM has maintained extensive appraisal records reflecting comparable sales and other recognized value data. The estimates for surface values in the exchange proposal are based on a more detailed and sophisticated analysis, generally following traditional appraisal techniques.

Finally, the value of aesthetic and other "intangible" resources has been done primarily by description. This means simply that like areas with similar features and attributes have been incorporated as part of the exchange process.

The resulting proposed 47 State land blocks and boundary configurations are shown on the map dated July 24, 1984 entitled

"State of Utah, Project BOLD -- Land Consolidation and Exchange Proposal".

The extensive review process also included the Utah Legislature. In the 1983 General Session the Legislature adopted two important State legislative measures: H.C.R. 6 authorizing the Governor and the Board of State Lands and Forestry (which has authority over State land exchanges) to prepare the statewide exchange and consolidation proposal for Congress and to aggressively pursue passage working with Utah's Congressional delegation. The companion piece of legislation, H.B. 327, amended the State Land Code to require the Board of State Lands and Forestry to manage State lands in accordance with multiple use-sustained yield principles, develop comprehensive State land policies and plans for existing land blocks, and to assure protection for public land users in State-Federal exchanges.

A preliminary draft bill for introduction in the Congress was prepared and distributed to the advisory council and other interested parties in May of 1983, and in June a public meeting was held by the Board of State Lands and Forestry on that proposal -- the eighteenth formal public meeting on Project BOLD. During the summer of 1983, the Board of State Lands and Forestry acted on the detailed principles to be suggested for Federal legislation.

Following those actions by the Board of State Lands and Forestry, the State worked closely with Utah's Congressional delegation to finalize draft Federal legislation. Numerous draft bills were prepared and circulated for comment. Contacts were made with Members of Congress, their staff, and national interest groups. Consultation continued with Interior. In March, legislation was introduced, S. 2471 by Senators Garn and Hatch and H.R. 5229 by Congressman Hansen.

The exchange proposal as originally introduced in Congress represented a careful, competent, good faith effort by federal and State experts to balance land values based on the best available information and analysis. Since introduction of original legislation in March, another approach to value has been incorporated to further assure protection of the financial interests of both the Federal and State Governments. Realizing that equity may be impossible to achieve, because of unknowable resources or values, the State proposes to share all revenues generated from mineral activities on all lands exchanged under the legislation. I will discuss this component in greater detail later, but I want to emphasize that the revenue sharing concept is in addition to rigorous efforts on the part of the State and the Interior Department to arrive at identification of lands of approximately equal values for exchange.

THE BILLS TODAY - S. 2949 and H.R. 6197

Following introduction, the State carefully scrutinized the bills with participation of representatives of Utah's Congressional delegation and through consultation with the Interior Department. These efforts explored better approaches to several important legislative components that would serve the State, Federal and public interest. Primary issues reviewed were valuation and treatment of valid existing rights. This process developed the concept of revenue splitting and determined that certain lands should be exempt from revenue splitting.

A new draft bill reflecting those efforts was reviewed by the Utah Board of State Lands and Forestry. The Board made changes regarding treatment of mining claims, the State's flexibility in revenue use, and provisions regarding grazing privileges. The State also identified additional parcels for acquisition to reflect equity of current revenue production. Our Congressional sponsors and I agreed that the refinements in the bill were of sufficient significance to warrant introduction of new legislation for Congressional consideration. That would afford the public and Congress the opportunity to fully review provisions the State now proposes. Most provisions are identical to the original bills' and the primary objectives of the legislation remain unchanged.

The legislation conveys about 2.5 million acres of Federal lands to Utah in exchange for a conveyance from Utah of about 2.5 million acres to the Federal Government. It sets forth mechanisms to protect valid existing rights, to provide an interim of continuity in land management practices and administration, and to provide the State of Utah additional authorities to manage the consolidated lands we will acquire.

Conveyances

Enactment of the S. 2949 would cause the Interior Secretary, upon State of Utah conveyance of State lands to the Federal Government, to convey to Utah Federal lands of approximately the same acreage and total equal value. Prior to conveyance of the Federal lands, Utah must accept the provisions of this Act; land descriptions of lands to be conveyed by both governments are to be published in the Federal Register; and the title to State lands to be conveyed must be approved by the U.S. Attorney General. So that the conveyance process established will be expedited, Utah is provided a maximum of five years in which to perform its obligations under the Act. In carrying out those obligations, Utah may need to adopt some form of State legislation to ratify the provisions of this Act. The State is prepared to do what is necessary to comply with the Act.

Lands to be conveyed and received by each government have been designated on maps on file with the Department of the Interior, Congressional Committees of jurisdiction and the State of Utah and as displayed here before you. The resulting land ownership configuration would transform most of Utah's 5,000 isolated sections into 47 larger, consolidated, manageable land blocks. The State would retain its limited Forest Service inholdings, approximately 40,000 acres, for subsequent administrative exchanges and also State special use or special management areas. Except as otherwise noted, the Federal Government would acquire all of the scattered State landholdings not included in the State land blocks, fill in its land base, and remove itself from some isolated parcels.

There has been some criticism about specific land blocks identified for conveyance to the State under S. 2949. The proposed State blocks represent the State's diversity. Some will permit the State to develop recreational opportunities and wildlife habitat. Others have little known commercial value other than livestock grazing. Some blocks are rich in mineral resources. We have some areas in Utah which have both outstanding aesthetic qualities and valuable mineral deposits. It is disconcerting that we have found objections to some blocks because they may present potential management policy conflicts. Utah's rich variety of resources makes difficult policy decisions over land use inevitable. The State is prepared to fully assume responsibility for management of the land it acquires. Furthermore, a diversity of lands and uses is absolutely necessary if we are to maintain an equal value exchange. We have dramatically reduced potential management conflicts, but some are inevitable if we are to proceed with a fair exchange.

Sometimes coupled with concern about specific proposed State land blocks is concern about Utah land management practices. Let me emphasize that except for a few isolated land blocks, the land ownership pattern has precluded the State developing any land management plans or capability. We simply cannot meaningfully manage 5,000 separate square mile parcels of land. Under the circumstances, I believe we have done an excellent job and have developed and provided for a variety of land management practices and uses. We have been limited, though, by the size and location of our lands and by the mandate of the Utah Enabling Act.

1983 State legislation which I referred to earlier provides for multiple use and sustained yield land management practices. The amendment to the Utah Enabling Act under S. 2949 would augment our State actions by recognizing the need for additional management flexibility by broadening our trust responsibilities to allow for management under multiple use principles. Of course, we have been careful to retain the school funds as the recipient of all revenues from State school lands. In addition, a Utah State Land Law Review Commission is working on comprehensive recommendations for a new land law code in Utah to provide the State the mechanisms and authorities it will need to be a good land manager for those land blocks recently acquired through indemnity selections and those blocks which would result from enactment of S. 2949. I am pleased to have the Chairman of that Commission, Chandler St. John, with us today, and I hope he will elaborate on the progress of the Commission and on some of the recommendations emerging for 1985 State legislative action.

I want to assure the Committee, and those who may be concerned about our management policies, that the State will have in place a land planning and management program which will seek full public comment and participation in management decisions. Our decision-making process will not be a closed one. We want to have our resources developed. We also want to protect unique and pristine areas in the State. Tourism and enjoyment of the environment are not only big industries in our State, but contribute substantially to a quality of life in Utah which is unequalled. Where both resources are present, we will face difficult decisions, but if S. 2949 is passed, we will have both the ability and the commitment to make those decisions after full evaluation of alternatives and under full public scrutiny.

The Department of the Interior and Utah have sought to propose lands for exchange of approximately equal value by pairing like resources and lands within resource and geographic provinces. Any value risk involved is equally shared by both parties to the exchange and is greatly reduced by sharing of revenues. The benefits of land consolidation through the exchange to both parties weighs in favor of sharing that risk over the enormous cost and time required to comply with FLPMA's exchange provisions. Although this exchange would take place outside of the FLPMA process, it should not be viewed as a precedent for avoiding FLPMA in Federal land exchanges of a more customary size and nature.

Revenue Splitting

However carefully the original land selections were made there remained uncertainties about undiscovered valuable minerals, potential changes in resource values, and other factors which may in the future significantly distort what today may appear to be approximate equal values. A major valuable mineral resource discovery on an exchanged parcel may be a windfall to the acquiring government, but could also be perceived as a loss to the former holder of title.

To resolve this potential dilemma, a new section is included in the bill providing for the splitting of mineral revenues received on lands conveyed under the Act. S. 2949 provides for a 50/50 sharing of mineral revenues between the State and Federal Governments on all lands included in the exchange, except for those lands where mineral development is not anticipated because of special use designations. Fifty percent of the mineral revenues received on State acquired lands will be retained by the State for designation to the State School Fund. The other fifty percent of mineral revenues generated on State acquired lands will be paid by the State to the Federal Treasury. Similarly, the Federal Government will pay to Utah fifty percent of the mineral revenues it receives on lands it acquires. Revenues received by the Federal Government for mineral activity on involved lands will be treated as are mineral revenues under the Mineral Leasing Act. Each government will be responsible for revenue collections on lands it acquires and procedures for revenue splitting. Each will also report to the other on mineral activity and revenue production on exchanged lands.

Certain lands where revenue producing mineral development is prohibited by law or by unique circumstances not anticipated to change are exempted under the bill from revenue splitting in Section 5(c) of S. 2949. These lands are identified on a separate map and in land descriptions paired with lands conveyed for them. No revenue splitting will occur for these lands or for the lands conveyed for them. Instead, these lands will be exchanged on a value-for-value basis. A valuation process similar to that used for Utah's indemnity land selections has been used to identify lands of approximately equal value for those parcels not included in the splitting of mineral revenues. Such exempted lands include National Park Service lands, lands in military reservations, and designated "natural zones" in Glen Canyon National Recreation Area. Exchanged full estate lands on Indian reservations are also exempted from revenue splitting. Other specific revenue splitting provisions are provided for Wilderness Study Areas and metalliferous minerals.

For Wilderness Study Areas, revenue splitting will not occur until they are released from wilderness review or 1995. For metalliferous minerals, revenues will be split for up to ten years. Utah leases metalliferous minerals (gold, silver, copper, etc.) and those leases generate revenues. The Federal Government, on the other hand, administers disposition of these minerals through a location and discovery system, which does not generate revenues for the Federal Government. The ten years represent a transitional period in which Federally acquired lands continue to produce revenues from State metalliferous leases but on a declining scale as leases expire and lands move to a mining claim system; and State acquired lands begin to move from a mining claim system with no revenue to a lease system with revenue. In ten years little metalliferous mineral revenue should be produced from Federally acquired lands and with an upward trend in metalliferous mineral revenues on State acquired lands.

Some opponents of Project BOLD have asserted that the exchange will mean a revenue loss to the State of Utah of billions of dollars. This contention has no basis in fact. With the 50/50 revenue splitting contained in S. 2949 and the lands identified for conveyance, neither the State nor Federal Governments would have an immediate revenue gain or loss. According to State analysis, current mineral revenue production from major mineral commodities on active production lands identified for conveyances is estimated at $9.4 million to the State and the same, $9.4 million to the Federal Government. Of the $9.4 million generated from Interior Department mineral leasing activity, the State receives one half, $4.7 million. Current total State receipts on lands for conveyance is then $14.1 million. The Federal Government retains $4.7 million from its lands. With the formula for revenue distribution contained in S. 2949 and using current revenue production estimates, the final revenues retained by each government, if implemented today, would remain the same as prior to enactment, $14.1 million for the State and $4.7 million for the Federal Government.

STATE AND FEDERAL MINERAL REVENUE FLOWS FOR CONVEYED LANDS

PRIOR TO ENACTMENT-Current Mineral Revenue Estimates
(in millions of dollars)

	UTAH	FEDERAL
Revenues Produced	9.4	9.4
Federal Mineral Leasing Act $$ to State	+4.7	-4.7
TOTALS	$14.1 million	$4.7 million

AFTER CONVEYANCES WITH MINERAL REVENUE SHARING

	UTAH	FEDERAL
Revenues Produced	9.4	9.4
Sharing 50%	-4.7	-4.7
	+4.7	+4.7
SUBTOTAL	9.4	9.4
Federal Mineral Leasing Act to State	+4.7	-4.7
TOTALS	$14.1 million	$4.7 million

Protection of Rights

The bill addresses particular concerns regarding administration and management of lands conveyed and the protection of current uses, interests, and agreements associated with both the Federal and State lands acquired through the legislation. These provisions address grazing use, mining claims and rights under the general mining laws of the United States, other mineral rights and leases, rights-of-ways, special use agreements, water rights, and the expansion of flexibility in State public land management authority under the Utah Enabling Act of 1894.

From the inception of this land exchange concept, Utah has conditioned any exchange on the development of procedures and policies to protect existing uses on the exchanged lands. The bill contains an umbrella protection of all valid existing rights and privileges granted under applicable law that are appurtenant to lands conveyed. All existing rights are to be administered and managed by the acquiring government under the terms, laws, and regulations under which the existing right was granted. Otherwise, all lands conveyed will be managed under the laws and regulations of the acquiring government. In the event of a conflict between the two, the laws and regulations governing the existing right will prevail. A holder of valid existing rights will be able to convert that right to an equivalent right under the laws of the acquiring entity. For certain kinds of rights, the bill provides more specific assurances and procedures.

In regard to grazing of domestic livestock, the bill protects the rights and obligations of holders of either Federal or State grazing permits and leases on lands exchanged. The government acquiring lands to which a grazing right is attached is required to honor that permit or lease; administer it under the terms in effect upon conveyance and in accordance with the rules and regulations of the original issuing authority; and upon lease or permit expiration, or its termination if not at the fault of the lessee or permittee, offer the permittee or lessee the first right of refusal to a new grazing lease or permit issued under the acquiring government's authorities. The new lease or permit would maintain any written user agreements.

Similarly, the Federal Government would administer State of Utah grazing permits or leases on lands newly acquired from the State and the State of Utah would administer Federal grazing permits or leases on lands it newly acquires from the Federal Government. As leases or permits expire on the newly acquired lands, the Federal Government and the State of Utah would each be responsible for offering new grazing leases or permits under their respective laws and regulations for the lands in question. The lessee or permittee on the lands at the time of acquisition would, however, be offered the right of first refusal for the newly issued grazing rights.

The purpose of these provisions is to protect those existing grazing rights that are in effect upon enactment and to provide a means of transition of administration, issuance, and enforcement of grazing rights from one government to the other for the lands conveyed with the least possible disruption of current use and user agreements. As with the permit or lease itself, the right to enjoy continued use and benefits of any improvements made in conjunction with a grazing permit or lease on the lands conveyed are protected in the bill.

The provision for honoring written user agreements is an important element of this legislation. In many instances, the specific uses of public lands are guided by informal agreements about acceptable practices. For example, there may be an understanding between the State land manager and the grazing permittee that under emergency conditions, like early blizzards, supplemental feeding will be permitted. To provide ranchers with an assurance that this use may continue in the future, we are requiring that those management understandings be put into writing, and that the acquiring government honor that usage understanding.

In some instances, State lands to be conveyed to the Federal Government may constitute the base property requirement under the Taylor Grazing Act to obtain a Federal grazing permit. The bill protects the interest of the lessee or permittee in such cases by carrying over the base property represented by the State permit or lease after the lands have been conveyed to the Federal Government. In almost all instances, the Federal permittee owns other property that satisfies the base property requirement. However, with this provision Federal permits would not be jeopardized as a result of Federal/State land conveyances that may include lease base property. This special provision for base property, however, is not applicable if the lease or permit is transferred or conveyed to others except by descent.

The Federal Government and the State of Utah have substantial differences in their management systems for locatable and metalliferous minerals (gold, silver, copper, lead, uranium, etc.). On Federal lands, a mining claim and patent process under the general mining laws of the United States is used. The State of Utah, on the other hand, has a leasing system for its metalliferous minerals. Because of these differences in hardrock mineral management, special attention is given in S. 2949 to protect rights of Federal mining claimants and of State leaseholders while providing a mechanism to transfer land management responsibilities to the acquiring government.

Valid existing mining claims on Federal lands conveyed to the State of Utah will remain in effect and the title to those lands will be subject to such claims and any rights associated with them. In order to clear that title, the State of Utah will provide an opportunity for the claimant to convert the Federal mining claim to a preferential, noncompetitive State of Utah mineral lease, sale permit, or other disposition under State of Utah law. If the claimant voluntarily elects to convert his claim and rights to the State system, the title would be cleared and the disposition of the minerals and the affected claimant's rights would be governed by Utah law and lease terms.

Federal mining claims on State acquired lands which are not converted by the claimant to State jurisdiction will be managed by the State of Utah in accordance with the general mining laws of the United States and with the cooperation of the U.S. Department of Interior. Interior will provide information on claims and claim administration and, through mutual agreement, provide administrative expertise to the State. If a claim is abandoned, relinquished, declared invalid, or is eventually converted to the State leasing system, the Governor will take any necessary action to clear the State's title.

If claims on State acquired lands are patented under the general mining laws, or if after ten years from enactment valid existing claims still encumber the State's title, the State may select other Federal lands of equal value in lieu thereof. Lands upon which there are active claims or lands taken to patent are of no value to the State for purposes of revenue production and the State has no desire to continue to manage mining claims deriving from the Federal system over the long term. The State has few, if any, options for management, and these lands are of little or no benefit to the State. They will actually be a negative drain on the State's resources given the costs of managing claims, claims that produce no revenue for the State. Those lands taken to patent will be removed from the State's land ownership. The State believes it should have an opportunity to replace these lands with in-lieu selections.

We are often asked why the State has not simply selected lands without mining claims. To the extent possible, Utah has avoided such lands. However, we have found in our review of potential BLM acquisition areas that mining claims are ubiquitous in Utah on the public lands -- even where there are no apparent minerals. In order to develop a proposal that includes regional and resource diversity, we have been further limited in our ability to avoid selections of Federal lands with mining claims.

In the case of State lands conveyed to the Federal Government which are under a State of Utah metalliferous mineral lease, the lease will remain in effect and be administered by the Interior Secretary. For such lands, the Interior Department is authorized to issue leases for exploration and development of minerals that would otherwise be administered under the general mining laws, but only to the person holding the State lease upon conveyance.

To further facilitate the transition from State to Federal hardrock management systems, the bill provides that State lands conveyed to the Federal Government will be open to location, entry, and patent under the general mining laws of the United States upon the issuance by the Secretary of the Interior of opening orders for these lands.

Treatment of existing mining claims and any changes which may be perceived to affect the rights and privileges of claimants on what are now Federal lands or which may become Federal lands under the proposal are among the most controversial components of the bill.

It is understandable that the mining community would be nervous about any massive land exchange. Under the general mining laws of the United States, the mining community enjoys a unique system of location, discovery and patent -- a system which works and has worked for over 100 years. Utah and her neighbors have prospered under the system and I have no intention of detracting from it or inferring through this legislation that it ought to be changed. But we are trying to exchange lands governed by entirely different systems of disposing of metalliferous minerals. We have had to find a means to preserve existing rights and to provide for a transition once the lands come under management of the acquiring government. Through consultation with the Department of the Interior, I think we have found a workable compromise that will preserve the rights of claimants, provide for a transition, and preserve two distinct minerals management systems over the long term.

Concerns have been expressed that the State will in its own interest pursue contests against all existing claims to try to remove them from the acquired State lands and clear title. This concern is the basis for some harsh criticism Utah has faced at home relative to this project. In the neighborhood of 7,000 mining claims are outstanding on lands to be conveyed to the State. The State has no desire to contest the thousands of mining claims it would inherit. Further, it would be impossible to contest that number of claims, both in terms of time and cost. It simply will not happen. Those claimants will, however, be offered the option of converting their claim to a State metalliferous lease. We think many of those claimants with a valuable discovery will find the State lease attractive. Where appropriate, other claimants will have the right to carry their claim to patent. The conveyance to State ownership will not affect the claimants rights under the general mining laws, but will provide them other options for protecting their interests in a mineral discovery. If the claim is outstanding 10 years after conveyance to the State or if it has been taken to patent, the State will be able to select other lands in lieu of those under patent or subject to a claim. This provision should remove any overriding concerns of claimants about the State vigorously pursuing contests. The State's interest will be protected through the in-lieu selection provision.

The mining community should also be encouraged by the prospect of State lands acquired by the Federal Government being available for entry once the Secretary issues opening orders. On the other hand, existing State metalliferous leases on lands acquired by the Federal Government will be maintained by the Federal Government and the lessee can anticipate full protection of his rights under the acquiring entity.

For other minerals which are under leasing systems by both the Federal Government and the State of Utah, the bill provides that the acquiring government recognize and honor existing leases upon lands acquired and administer the leases under their existing terms and under the laws and regulations of the original issuing authority. Rents, royalties and other payments due under the lease terms will be payable to the acquiring government. The leaseholder will be entitled to lease extension, renewal or other administrative action available under the original lease terms, regulations and law of the issuing authority.

The respective governments would similarly honor and enforce the terms of any use, sales, rights-of-ways or other agreements in effect on lands acquired under the land conveyances. Conveyances of land to either government would be made subject to valid existing rights. Water rights appurtenant to lands conveyed would convey with the lands, however, nothing in the bill would affect private water rights. The administration of water rights would not be affected by land conveyances under the legislation.

While the bill is explicit in providing for the protection of existing rights associated with affected lands, it does not specifically prescribe appeal procedures should disputes arise in connection with those rights. Both the Federal and State governments have established appeals procedures which afford due process. However, we have consulted with the U.S. Department of Justice and the Interior Solicitor's office on this point and have concluded that language should be included in the bill to clarify the appropriate forums for resolving disputes in order to avoid confusion and lengthy litigation over who should hear appeals. Utah is preparing suggested language to address the appeals issue and will make it available for the Committee's consideration and possible inclusion in legislation.

Except as otherwise provided in the bill, lands acquired by the Federal Government would be managed by the Secretary of the Interior consistent with Federal law and the State of Utah would manage its acquired lands as provided under State law. In regard to its acquired lands, the State will recognize and be sensitive to existing values, resources, and uses, including forage, water and habitat for domestic livestock and fish and wildlife; access to and opportunities for outdoor recreation; mineral resource exploration and development; the quality of ecological systems; and scientific, historical, and archeological values.

Payment-in-Lieu-of-Taxes

Under the Federal payment-in-lieu-of-taxes program (PILT), Utah counties receive Federal payments in recognition of the diminished tax base of local governments in public land states. Utah counties have been concerned that as a result of the proposed land conveyances, the county by county distribution of Federal acreages for which local governments receive Federal payments in lieu of taxes would change and any one local government may experience a reduction in its entitlement to Federal payments.

To address that potential problem, the State of Utah has enacted legislation to hold counties harmless, guaranteeing that the State will make up the revenue difference in those counties which experience a reduction in Federal acreage eligible for payment. Another larger problem emerged, though. Under Section 6902(b) of PILT, the 2.5 million acres of State lands which are acquired by the Federal Government would be exempt in lieu payments because they are not now on the tax roles. The acreages being acquired by the Federal Government are approximately the same as the acres being relinquished. It is only fair that the State and local governments not be penalized under PILT because of the realignment and consolidation of Federal and State land ownership. The bill, therefore, for purposes of these land conveyances only, authorizes payments in lieu of taxes for those Federally acquired State lands. This provision would leave the Federal Government in virtually the same position as before the exchange in regard to PILT in Utah.

Enabling Act Amendment

Utah achieved statehood under the Utah Enabling Act of 1894. The Act provided the State land grants from which revenue was to be derived to support the public schools. The land grant provisions in the Enabling Act, as interpreted by U.S. Supreme Court decisions, require that the State receive fair market value for all school land uses. Utah local governments, however, are faced with a dichotomy whereby the Federal Government permits use of Federal lands for such public purposes as water storage tanks, waste disposal sites, roads and parks, and provides community land grants at nominal cost. The State of Utah is unable to provide such treatment to its local governments or provide State land for public purpose uses at less than fair market value due to the Enabling Act. S. 2949 amends the Utah Enabling Act to clarify the intent of the original land grant, to permit the State to allow public purpose uses of State lands at less than fair market value and further, consistent with State statute, to recognize management of State lands under multiple use and sustained-yield principles.

As you review the State process and the efforts which preceded introduction of S. 2949, you will find that we have encouraged public participation and have been diligent in addressing concerns at any level. We want to work with you, Mr. Chairman, our delegation, and the Committee toward resolving issues as they become apparent and for passage of an Act that is mutually beneficial to Utah and the Federal Government, and an example for our neighboring Western States.

At the end of the year I will leave public office. I am glad that both of the gubernatorial candidates campaigning to succeed me have indicated their desire to carry on this initiative. I am pleased that Norm Bangerter is able to participate in today's hearing and I would like to submit for the hearing record a statement by Wayne Owens, who is unable to appear, supporting S. 2949 and stating his commitment to Project BOLD.

I realize that beyond this hearing little can be expected by way of consideration of S. 2949 this Congress. It is my great hope, however, that next year the Congress will be able to thoroughly consider this proposal and enact legislation. I urge your work toward that goal.

In closing, I would like again to thank the Chairman of the Subcommittee, Senator Wallop, for scheduling these hearings and our Utah Senators, Senators Garn and Hatch, and Congressman Hansen for their work and support for this proposal.

Statement of
Wayne Owens
Democratic Candidate for Governor
State of Utah
On S. 2949
Before the Subcommittee on Public Lands and Reserved Water
Committee on Energy and Natural Resources
Senator Malcolm Wallop, Chairman
October 2, 1984

As a candidate for Governor of the State of Utah, I would have liked very much to have been able to appear before your Committee today for your hearing on S. 2949, the Utah State and Federal Land Management Improvement Act of 1984, known as Project BOLD in Utah. Unfortunately, commitments in Utah prevent me from coming to Washington for this important event.

I wish to express to you my support and commitment to S. 2949. The development of Project BOLD has been a long process in Utah, and the bill before you today represents the careful balancing of competing interests and the needs of State and Federal governments. The potential long-term benefits to Utah from improved land configurations and management opportunities will enhance State and Federal interests.

While I am well aware that your Committee and the Congress will not be able to complete action on this bill this year, I want to assure you that as Governor of the State of Utah, I would aggressively work with our Congressional delegation to seek passage of Project BOLD legislation in my administration.

UTAH
WILDLIFE
FEDERATION
POST
OFFICE
BOX 15636
SALT LAKE
CITY, UTAH
84115

Statement By
Gerald E. Gordon
Utah Wildlife Federation
On S. 2949
Before the Subcommittee on Public Lands and Reserved Water
Committee on Energy and Natural Resources
Senator Malcolm Wallop, Chairman
October 2, 1984

Mr. Chairman, I am Gerald Gordon, President of the Utah Wildlife Federation, and am testifying on S. 2949, know in Utah as Project BOLD. The Utah Wildlife Federation is Utah's largest group of organized sportsmen and Utah's affiliate of the National Wildlife Federation. The Utah Wildlife Federation has for the most part supported the concept of Project BOLD since its inception.

However, the Federation is knowledgeable of and deplores the pressures exerted upon Federal agencies by some users of public lands who are motivated by single interest benefits or personal profits to prevent the application of sound resource management principles to public lands. Accordingly, we believe that Project BOLD has the potential for sound resource management providing appropriate State legislation is enacted to assure the national Congress, the federal land managers, and all Americans that the lands exchanged through Project BOLD are managed by the State government land agencies with at least the same level of quality as managed by Federal land agencies.

Therefore, we are opposed to the actual transfer of any Federal land to the State of Utah until State legislation is adopted which will assure at least the following:

1. Exchanged lands will remain in state ownership and will revert back to Federal ownership prior to being passed into private ownership.

2. Exchanged lands be managed under multiple use management for the benefit of the largest number of citizens rather than localized interests or special interest groups. In the context of multiple use management wildlife must be considered as an equal partner with other uses.

3. The expenditure of state funds for roads, fire suppression, range management, watershed management and wildlife management on all exchanged land even when the cost of such management exceeds the revenues received for the exchanged lands.

4. Wildlife is managed as a trust for the citizens of the State, and the school trust and wildlife trust are considered complementary and compatible, and not as competing interests through the implementation of an overall state wildlife management policy which will serve as the guide to agencies of the State Government for all state land planning.

On behalf of the officers, directors, and members of the Utah Wildlife Federation, I thank you for the opportunity to voice support (as qualified) on the concept of Project BOLD.

Society of American Foresters
Wasatch Front Chapter

RECEIVED
GOVERNORS OFFICE
071384024

7337 South Chris Lane
Salt Lake City, Utah 84121

July 11, 1984

Honorable Scott Matheson
State Capitol Building
Salt Lake City, Utah 84111

Dear Governor Matheson:

Enclosed for your consideration is a position statement on the "Utah Federal and State Land Management Improvement Act of 1984" (commonly referred to as Project Bold). This position was prepared and adopted by the Wasatch Front Chapter of the Society of American Foresters. Would you please enter this statement into the official record during the formal congressional hearings on the proposed legislation.

If you have any questions, please contact me.

Sincerely,

John H. Stephenson

John H. Stephenson
Chairman, Wasatch Front Chapter,
Society of American Foresters

Enclosure:
Position Statement

SOCIETY OF AMERICAN FORESTERS 1900

To advance the science, technology, education, and practice of professional forestry in America, and to use the knowledge and skills of the profession to benefit society.

6

WASATCH FRONT CHAPTER

SOCIETY OF AMERICAN FORESTERS

Whereas the Society of American Foresters is a professionally educated and trained group of people with a wide range of expertise in forest land management on both public and private lands, and is further involved in promoting professionally managed forest lands for the production of multiple-resource benefits, we of the Wasatch Front Chapter do hereby recommend, support and endorse the following:

1. Passing the "Utah Federal and State Land Management Improvement Act of 1984" (commonly referred to as Project Bold).
2. We endorse this legislation because the consolidation of State and B.L.M. lands will:
    a) improve effective and efficient management of the lands,
    b) reduce land management conflicts and public confusion.
3. We support amendment of the Utah Enabling Act to authorize retention of State acquired lands for multiple-use purposes.
4. We feel that legislation at both the Federal and State levels is necessary to successfully conclude a project of this magnitude.
5. The Statewide exchange should consider surface and subsurface values in determining the land consolidation blocks.

Senator WALLOP. Governor, thank you. As you pointed out, the fact that we are holding a hearing should not be viewed as threatening. Even if we wanted to, we wouldn't have time to do this legislation in this Congress. It is a process by which an understanding of the problems gets underway.

I was reminded while you were speaking of how difficult it is to plow new ground and to change practices that have been in place for a long time.

When I moved on to the ranch which had been in my family at that time about 90 years, I began to operate it for myself. For the first 5 years that I had it, every summer that I would do one hay field on top of a hill that we had, I wondered each time I went across the road with the swather why that road was in the middle of the field, and every time I irrigated it I had to dam up the road so the water wouldn't run down it, and drive across this thing and chunk, chunk on the way up—same thing on the way back. Every piece of machinery had to do it.

And finally about the end of the fifth year I was plowing the field, I thought I wondered what would happen if the road went around the edge of the field, which is exactly where I put it. I ran the road around the edge of the field, and it was marvelous. It was just such a refreshing change except that after a period of time most people who had worked on the ranch longer than I had operated it began to drive where the old road was anyway and sort of put it back by practice rather than by design, and so it took me the better part of 20 years with piling logs, stones, and everything else to persuade people, and it really was just as efficient and a lot more comfortable to go around the edge of it. It added perhaps 100 yards to a 600-yard drive in the first place, so it isn't easy, and I understand and will be understanding of concerns that are expressed by people who have had access to one or another of the uses of that land under one or another set of circumstances that exist there.

If you express the feeling of unwillingness for change, I hope that all can appreciate what the concept is trying to do, the efficiency both of the State and Federal Government and the ease of dealing with governments, and I know from again personal experience in the ranching business how difficult it is to deal with two land managers—the State of Wyoming and the Bureau of Land Management—on tracts that lie side by side. They are indistinguishable on the ground one from the other, including indistinguishable from the land which I own, and so I think in the long run it will be endlessly more useful.

In the short run, there is obviously going to be complications. We will go through those and see what we can do, but I appreciate what you are trying to do and hope that in some manner we can deal with and support and be in agreement with the vast majority of the people who will be affected by it.

Governor Matheson. Thank you, Mr. Chairman.

Senator WALLOP. Dr. Carruthers, Assistant Secretary for Land and Minerals Management.

STATEMENT OF DR. GARREY E. CARRUTHERS, ASSISTANT SECRETARY, LAND AND MINERALS MANAGEMENT, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY ROLAND ROBINSON, STATE DIRECTOR, BUREAU OF LAND MANAGEMENT, STATE OF UTAH

Dr. CARRUTHERS. Thank you, Mr. Chairman. It is a pleasure to be back before the Subcommittee on Public Lands.

With me today is Roland Robinson who is the State director of the bureau of land management in Utah, and we have certain assorted friends from the Bureau of Land Management behind us if you should have some questions regarding Project BOLD.

First, I would like to commend Governor Matheson and the Utah government for their leadership in developing this particular proposal. It has taken a good deal of time. They have been working on it since the Reagan administration arrived in town in 1981. They have gone to the field and held public hearings. They have counseled with the Bureau of Land Management and with my office regarding Federal obligations and Federal interests. We believe we have been responsive to the State.

I want to point out in particular, though, that this is a State-led effort, and the Bureau of Land Management and the Department of the Interior view ourselves as respondents, having provided some principles as to how we thought this kind of blocking-up effort ought to operate.

The State generally has adequately addressed the principles that we had articulated. It is in fact fairly comforting to endorse nearly everything that has gone on so far in this proceeding. The administration very much likes the concept of blocking up. We like the concept of Project BOLD, and we have strongly supported that.

To achieve the objectives, however, that Governor Matheson and the State government have set out, we do want to make it clear that we view this bill or a bill similar to this as necessary. We need a supplement to the Federal Land Policy and Management Act to overcome some problems that are inherent in the exchange of public properties, and so we think that congressional certification will be necessary before a proposal as bold as the one Governor Matheson brought forward can be executed by the Department of the Interior.

We do have a caveat, and Governor Matheson indicated it in his testimony. We believe that conveyances should be final. If the State were to select Federal property where patent applications are pending, they should do that recognizing that they may in fact have to patent that property.

In-lieu selections should not be made available to the State subsequent to their selection; we would like for the selections to be final.

Senator WALLOP. Garrey, if you would, Senator Hatch has come in and he has been involved very notably in the negotiations that are going on and the other things that are hanging up the Senate, and I suspect they are much more complicated than Project BOLD, so if you don't mind, I will ask you to just sit where you are and have Senator Hatch come and give his testimony, and then we will pick up where you left off. I appreciate it.

Good morning, Orrin.

Senator HATCH. I want to thank you, Mr. Chairman, for accommodating me. As you know, I have been kind of under a pressure-packed schedule lately, but an important schedule nonetheless, and you yourself are also.

STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM THE STATE OF UTAH

Senator HATCH. I am very happy to join with members of my congressional delegation, and of course our Governor, in this proposal.

Mr. Chairman, members of the Senate committee, I appreciate this opportunity to testify before your committee this morning. I am very appreciative of your interest in conducting these proceedings.

Project BOLD, the proposal incorporated in both S. 2471 and the more recent S. 2949, is a massive land exchange proposal spearheaded by our Governor in our State of Utah in an effort to increase and promote greater efficiency in managing resources located on State lands.

As you are no doubt familiar, the need for better management is precipitated by land policies of the 1800's when the Federal Government pursued a land policy which contrary to that of the 20th century focused attention on giving land away to encourage development. As western lands were annexed one by one and became part of the United States, scattered blocks of Federal lands were turned over to them to manage as a means of supporting the States' public school system. In some cases, specific lands were granted to the State for other specific purposes and/or institutional uses.

When Utah became the Nation's 45th State in 1897, nearly 36 million acres were granted to the State and specific land grants were made to 11 other State institutions. Utah's school land grant consisted of four sections of each 36 square mile township, and while this policy had its place in the 1800's, the effective management of these land parcels in the 1980's has become literally impossible.

The State of Utah estimates that more than 85 percent of the total State's land holdings cannot be managed by any sort of meaningful strategy and at least 500,000 acres are located as in-holdings within the national forests, parklands, military lands, and Indian reservations. Thus, land must in many circumstances be managed in a de facto manner following the management of surrounding lands out of necessity.

In a State in which 69 percent of the land is owned by the Federal Government, this becomes an increasing burden to us. In fact, revenues from the school trust provided only 3 percent of the State of Utah's school budget in 1981.

In recognition of the problems which have and will continue, Governor Matheson in 1981 began investigating the possibilities of a massive land transfer in which the State and Federal Governments could participate in an acceptable land exchange.

This idea, aptly dubbed as Project BOLD, was introduced by Senator Garn and me earlier this year. While the introduction of this legislation has not been without controversy, I believe it is a well-thought-out proposal which is worthy of the committee's consideration, and I am hopeful that the dialog that it stimulates will be supremely productive.

As we all know, there is no such thing as the perfect piece of legislation, and that dawns on me more and more as I serve in this body.

However, a great deal of work has been done to produce the document before you, and I think we all appreciate our Governor's contribution. I believe it to be a significant one which will have a lasting impact on these types of issues, and in particular, to the benefit of our State of Utah which I think could be very beneficial to the country as a whole.

Once again, Mr. Chairman, I appreciate you allowing me to testify out of turn, and I appreciate your interest in this issue, and I really am grateful for the opportunity to be with you today.

Thank you so much.

Senator WALLOP. Orrin, thank you. I have been sitting here as you were talking and appreciate the unified support that the State has been able to develop on this bipartisan issue, but I have got to counsel you on one thing—if you are going to be taken seriously by your colleague, Jake Garn, and the Governor, and by me, you have got to do something about your hairline.

Senator HATCH. I think there may be some truth to that. I think Nature will have taken care of that I expect fully in the next few years. I'll be right there with my good brother Jake and we will just see what happens.

Senator WALLOP. The full level of your maturity will be magnificant.

I appreciate your coming here, and I thank you because I know how busy you have been.

Senator HATCH. Thanks a million.

Senator WALLOP. Thank you for your understanding.

Dr. CARRUTHERS. My pleasure; Mr. Chairman, I just want to indicate once again the caveat that we have on conveyances. In opposition to what Governor Matheson said, we believe the conveyances ought to be final to the State that chooses land, not knowing that there are perhaps some claims against those properties, but once that they choose them, then they are subject to whatever claims that might mature. We prefer to do business that way. Besides, the Federal Land Policy and Management Act does provide for subsequent exchanges if in fact those are necessary, so we would ask that the bill be modified in that fashion.

I would summarize then by saying that we are very hopeful in this administration, that the Congress will give a positive reading to this particular package. It is an interesting approach to solving many western land problems.

As has been indicated by many of the witnesses, we do believe it to be the prototype for other Western States who have already expressed an interest to the Bureau of Land Management to enter into these kinds of negotiations.

It is very important, however, that the leadership for such proposals come from the States and not from the Bureau of Land Management. We will continue to await the leadership of Governor

Matheson, and other Governors of the Western United States to come forward and ask for similar kinds of conversations.

We would ask the committee to look at three potentially important contributions to the public land management that are inherent in the proposition.

One is the resolution of equal value of the subsurface where we split the mineral revenues at 50-50. We think that is an appropriate process that could be extended in public land matters in the future.

Senator WALLOP. Do you think they have achieved that with the plan that was described by the Governor of sharing revenues?

Dr. CARRUTHERS. Pardon me?

Senator WALLOP. Do you think that can be achieved with the program as presented by the Governor of sharing the revenues 50-50?

Dr. CARRUTHERS. Yes. We have developed a data base in the Department of the Interior, and it is really a matter of royalty management more than anything else. Our view of the bill is that the acquiring entity will do all leasing and management of that particular property. If we have a data void that we don't understand the mineral content, we will split the mineral revenue 50-50, and so we share the risk. We share the risk because we don't know what might be below the surface of the ground.

As a consequence, we checked with the Minerals Management Service to see if this would be a difficulty for the Department of the Interior to keep these accounts. They say it will not be. So this is an agreed-upon approach between the State of Utah and the Bureau of Land Management to handle subsurface data voids.

Senator WALLOP. It is fascinating that at some moment in time that is perhaps the easiest way of solving that problem, but to get to the point where there was an exactitude of dollars and cents on every issue is perhaps a waste of time, as long as you are coming down on something that is roughly equivalent. You know, everybody is going to have a different idea of what a view is worth. There are some things in terms of grazing lands that can reasonably be made equivalent, but I think that it is probably, well, it is sort of like what the opponents of strategic defense are doing, saying if you can't do it 100 percent, there is no point in doing it at all, and I think if that becomes the attitude by either the State or the Federal Government, it won't get done at all if we can't sort of get to the point wherein we say this is a good deal for both of us, as close as we can.

We can't get them to exactitude and all of this, and I hope that becomes the attitude of both sides in this.

Dr. CARRUTHERS. I think we have accommodated one another, but keep in mind, Mr. Chairman, that this administration has had a number of religious experiences with respect to fair market value of public resources. As a consequence of those experiences, we feel that this method of sharing the risk when the data is not available is the most appropriate approach. It protects our 230 million stockholders as well as the State.

Senator WALLOP. That part seems easy. It is the other part that may become more complicated, and it is not as though you are dealing with Standard Oil Co. or Consolidated Coal Co. The citizens of Utah are part of the shareholders of the country, too. Nobody is suggesting that either side get away from the big issue, but you are going to have to have pretty good will in the valuation of certain intangible concepts such as views and proximities and other things.

Dr. **Carruthers**. Yes. That is correct. The other issues that we would ask the committee to look into as potentially important contributions to land management in the future are the means of protecting valid existing rights, and they are spelled out in the bill.

Many of these came from the interest groups that responded to the Governor's call for public input, and we would like for the committee to look at the method of solidifying control where the acquiring entity takes over both the surface management and subsurface management under the provisions that I just indicated.

The Department of the Interior encourages the committee, encourages the Congress to move favorably on this proposition, and we offer any help that we may provide to the Congress or to the State of Utah in its continuing effort, Mr. Chairman.

[The prepared statement of Dr. Carruthers follows:]

October 2, 1984

STATEMENT OF GARREY E. CARRUTHERS, ASSISTANT SECRETARY - LAND AND MINERALS MANAGEMENT, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER, COMMITTEE ON ENERGY AND NATURAL RESOURCES, ON S. 2949, A BILL "TO IMPROVE THE LAND OWNERSHIP PATTERNS AND MANAGEMENT OF STATE AND FEDERAL LANDS IN THE STATE OF UTAH AND FOR OTHER PURPOSES"

I appreciate the opportunity to present and discuss with the Committee members the Department's position on Project Bold--a State of Utah initiated proposal for consolidating State and Federal land holdings in the State.

The bill sponsors have outlined the objectives of the bill and its structure to achieve these objectives. I will not reiterate those points, but rather get immediately to our bottom line.

We support the Project Bold concept and with the deletion of the provision providing for State in-lieu selections and the addition of a provision on the handling of appeals, we would strongly endorse the bill as drafted subject to final clearance by our Bureau of Land Management (BLM) State Director of the specific areas identified for exchange. With regard to the public lands, the provisions and requirements of this bill would be supplemental to those under existing laws such as the planning and resource protection requirements under the Federal Land Policy and Management Act and other applicable laws.

Before discussing our proposed modifications, I would like to commend Governor Matheson, his fine staff, and the Utah congressional delegation for their dedication and effort in pursuing this truly innovative approach to improve management of the public lands in a manner that protects the valid existing rights of individuals and provides for balanced and continuing multiple-use management. The development of this bill was no small task for the State of Utah. What has been accomplished is a tribute to Governor Matheson's leadership. The Governor has diligently pursued an outreach program to involve interest groups. The State has actively sought to consult with the many varied interest groups and affected interests while consulting concurrently with the Department. I would like to talk about several of those principles. Interior's role has been limited. We provided planning and resource data and identified several general principles which we used to evaluate the legislation from a land manager perspective.

First, and foremost, is the principle that the exchange must be premised on an equal value basis. Particularly difficult in this regard is the valuation of undiscovered mineral resources. As you appreciate, mineral valuation is a complicated and uncertain determination. Rather than pursue the expensive and time-consuming traditional approaches used to appraise small individual tracts, the bill incorporates a provision which will provide for the splitting of future mineral revenues between the State and the Federal Government on a 50-50 basis. In effect, this will equalize the values at the time of development This provision will apply to all exchanged lands except for those areas where there are congressional prohibitions on future minerals development or where the lands are unlikely to be developed because of safety reasons, such as areas in military reservations which may be contaminated. Areas in these latter categories are to be exchanged on a straight equal value basis. With regard to surface values, a valuation process similar to that used for indemnity land selections has been used and I understand that the State will describe that process in more detail. Overall, we think this is a fair and equitable approach that reduces the uncertainty and risks to both parties, is less costly and better protects the public interest.

A second principle is assuring that valid existing rights of individuals are protected. The draft bill is particularly strong in this regard and includes not only an umbrella provision but also specific provisions regarding various specific uses. An example is the provision relating to grazing rights which is unique. There are some cases where State lands have been used by a grazing permittee or lessee to meet the base property requirements for a Federal grazing lease or permit. Where those State lands are conveyed to the United States pursuant to this Act, the permit or lease would remain in effect for the term of the lease or permit. At the end of the term, if the United States determines that grazing may continue on those lands, the holder would be entitled to a new Federal lease or permit. However, that grazing lease or permit could not be assigned, transferred, or conveyed, except by descent, unless new base property were acquired for it. If other base property is acquired, the limitations on transfer would cease to apply.

Another example is the specific provisions relating to protection of hardrock mineral rights. They give the Secretary the authority to issue a lease for the exploration and development of minerals that would otherwise be subject to location and would be administered under the general mining laws. However, such leases could be issued only to those persons who hold a lease for those minerals from the State on the date of enactment of this bill.

There are also specific provisions relating to protection of other mineral rights, of water rights associated with property, rights-of-way, and special use agreements, as administered by both the State and the United States. We believe these provisions adequately protect valid existing rights.

A third important principle is that the gaining entity be responsible for managing the resources and the rights pertaining to the lands it acquires. Gradually, the holders of those rights granted under either State or Federal authority would be converted to the gaining entity's management systems. The acquiring entity would manage existing rights for the balance of their current term in accordance with the terms and conditions of the existing contract. Other provisions of the bill give the holder of rights the additional right to convert them to approximately equivalent new rights under the laws and regulations of the acquiring entity, and encourage the Secretary and the Governor to begin negotiations with the holders of such rights for the purpose of converting those rights to equivalent new rights.

All renewals or extensions of rights by the acquiring entity would be done in accordance with the laws and regulations of the acquiring entity. In this regard, we suggest a provision be added to the bill to clarify procedures that would be used for handling administrative and legal appeals should disputes arise.

We also believe it is important to establish a legislative deadline for compliance with the proposal. Conveyances should be final, with no open-ended provisions. The draft bill provides for a 5-year deadline for implementation of the bill and we have no problem with that provision. However, the bill contains a provision that would allow Utah to make in-lieu selections for lands that go to patent or are still encumbered after 10 years. The State should weigh that factor prior to selection and select only lands that it is willing to take "as is." We object strongly to this provision and urge the Committee to delete it and require all exchanges to be final. If it is determined that future modifications are warranted, authority exist to make the change, or it could be handled on a case-by-case basis through special legislation.

Lastly, to provide that important natural resource values are conserved, the BLM State Director, in making his final review of lands identified for exchange, will work with other DOI Bureaus to ensure protection of park resources, wetlands, and lands and waters important for endangered species.

That completes my prepared remarks. I would be happy to answer any questions.

Senator **Wallop**. I appreciate that. Let me just say one other thing on values. It strikes me that using the rancher's concept, the value of each of your holdings will be substantially enhanced by consolidation.

A ranch that is scattered over three or four different places with intervening ranches in between is nothing like the value of that same ranch in that same area if you could block it up.

It seems to me that both the State of Utah's citizens and the citizens of America, and the same holds true of the rest of the country, will benefit greatly by increased efficiency and increased value that comes with that consolidation.

Dr. **Carruthers**. We would concur wholeheartedly.

Senator **Wallop**. Thank you very much. I appreciate your testimony here this morning. Thank you, Mr. Robinson, for coming all this way.

Has Congressman Nielson come? I haven't seen him. We will hear him when he does.

Next is a panel consisting of Mr. Calvin Black, chairman of the San Juan County Commissioners; Alfred Dehiya, Navajo Nation; and Ninibah Morgan Cahn of the Navajo Nation, both of Window Rock, AZ.

What we will do now, out of necessity in order to finish this witness list, we will begin the 3 minutes. The green light stays on, the yellow light gives you the warning the red is coming on. When the red comes on, there will be some tolerance, but not much tolerance so that I can do the same to all the people who have come from many miles to be witnesses here this morning.

Mr. Black.

STATEMENT OF CALVIN BLACK, CHAIRMAN, SAN JUAN COUNTY, COMMISSION, BLANDING, UT

Mr. **Black**. Thank you, Senator. I appreciate this opportunity. I will be making a statement for the San Juan County Commission, and I will submit copies of that along with copies of the resolution passed by the commissioners at their workshop and some resolutions signed by individual commissioners.

In addition, I would like to leave for the record a statement by two livestock operators in San Juan County, and a statement I would like to make at a later time on behalf of the Utah Mining Association.

Senator **Wallop**. I appreciate those. Those statements will be made a part of the record.

Mr. **Black**. Mr. Chairman, members of this committee, first of all, I feel like I am a little alone here today. It is quite often that I agree to disagree with our Governor. Very seldom would I disagree with members of our congressional delegation, but I appreciate the opportunity to testify before you today on Project BOLD which is a proposal to block lands owned by the State or Utah rather than to have them remain in the checkerboard pattern.

There are about 450,000 acres of State land which are presently within federally designated areas, and these should, of course, be exchanged immediately as was anticipated when the legislation that created these areas was enacted.

However, this should be accomplished administratively rather than through a lengthy legislative process.

Another element of Project BOLD as originally proposed was for the State of Utah to select the lands still due from the enabling act upon achieving statehood. This process is nearly completed as the Governor mentioned and is no longer a real element of Project BOLD.

I must tell this committee and make it a matter of public record that in my opinion, the State has made extremely poor selections at this point. One example to demonstrate this position is that in most cases the State and affected counties are receiving less revenue after ownership by the State than when the land was owned by the Federal Government. I won't go into that, but the loss of Federal PILT money and the State only getting the other 50 percent, and assuming management is the reason for that.

The main element of Project BOLD, to exchange most existing checkerboard sections of State lands, has had as its premise and promise those earlier remarks that have been made today, to make the land more manageable for the State and enable the State to make its own decisions on land use without the interference from the Feds and to chart its own destiny and to increase revenues from such lands for the benefit of the schools.

This premise and promise was a goal to which no one would be opposed if in fact it was real. However, after more than 2 years of study and review, I along with most of the county commissioners in the counties where most of the State lands are to be exchanged, along with many others in the State of Utah, are opposed to this wholesale exchange called Project BOLD or "big ole land deal."

Some of the reasons are as follows—grazing. In many areas of the State there are insufficient private lands to meet the base land requirements to maintain Federal grazing. State lands are deemed to meet this need. Many times supplementary feeding is necessary in drought or heavy snow conditions. Such activities are usually prohibited on Federal lands but can and have been carried out on the State sections.

In many cases, water development and range rehabilitation projects are not allowed to be carried out on the Federal lands.

As drafted, the bill provides this payment in lieu of taxes—as drafted, the bill provides that the Federal Government will continue to make PILT payments on exchanged land irrespective of the current provisions of the law. Although I would favor this provision if the bill ever passes, it would in my opinion create serious problems by setting a precedent which may seriously distort the national PILT Program. In other words, other States can say we want the same treatment on lands that have been in previous State ownership.

If not adopted, it would cost the State of Utah nearly $1 million per year with a potential yearly cost of nearly $3 million. Blocking will increase management costs. Present revenues from surface use of State lands is less than $1 million per year. Costs for surface management are about $2 million. If another million is added for State PILT, the yearly cash flow loss for surface use will be $2 million—hardly the way to increase revenues, revenues from surface use.

Mr. Chairman, I am about half through. I really would like to comment——

Senator WALLOP. Mr. Black, let me suggest to you that the only way I can be fair in this is to limit you to 3 minutes. If there is time remaining afterward, I will let you finish. The whole statement will be part of the record, but I have a lot of people who have come the same distance, and I think they are entitled to their time. If you care to summarize it?

Mr. BLACK. Maybe I can do that. I think one of the most important losses for the State of Utah—and I would like to make it clear that my statement, my concerns, are not a prevention with respect to the county or any personal interest. It is with respect to the State and revenue that we have and the biggest potential loss I see, and I will try to summarize and just leave the rest of it unless I have time later on, but the State of Utah presently has undisputed ownership of all locatable minerals on the State lands. The State will lose this value in most cases, but will not gain similar property rights on acquired Federal land on which mining claims exist of which there may be as many as 25,000 according to the Utah Mining Association.

There is no way to estimate the ultimate loss to the State with respect to this issue.

I would just conclude by saying the mining claim owner has the right to patent. I am a mining claim owner. I do not have mining claims on any of the proposed exchanges, but I can tell you that as a mining claim owner for 37 years, being in the mining business, and also having State leases, there is no condition under which I would surrender that mining claim for a State lease.

For instance, if I were to produce 10 million dollars' worth of ore on a mining claim, I pay no royalty. If I pay the State the lease, it would be from 4- to 8-percent plus an annual rental. Ten million dollars at 8 percent would be $800,000. Why would I pay the State of Utah that amount of money? The Governor has indicated people would do that. I know of no mining claim owner that would, and I have talked to many of them, but I believe this is the largest loss the State would have.

The other thing is the split estate. Assuming some of these sections that the Federal Government acquires, then later a Federal policy says we will not develop perhaps in a wilderness study area, then the State would end up paying the Federal Government if they were more development oriented far more than the other, so I'm sorry for exceeding the time, but I would like to leave these for the record.

[The prepared statement and additional resolutions and statements submitted by Mr. Black follow:]

STATEMENT OF CALVIN BLACK, CHAIRMAN,
SAN JUAN COUNTY, UTAH COMMISSION
BEFORE THE SENATE SUBCOMMITTEE ON PUBLIC LANDS
OCTOBER 2, 1984

Mr. Chairman and members of the Committee. I appreciate the opportunity to testify before you today on "Project Bold" which is a proposal to "block" lands owned by the State of Utah rather than have them in the "checkerboard" pattern.

There are about 450,00 acres of state land which are presently within federally designated areas such as military reservations, national parks, monuments, and recreation areas. These should be exchanged immediately as was anticipated in the legislation when these areas were created. However, this should be accomplished administratively rather than through a lengthy legislative process.

Another element of Project Bold as originally proposed was for the State of Utah to select the lands still due from the Enabling Act upon achieving statehood. This process is nearly completed administratively so is no longer a real element of Project Bold.

I must tell this Committee and make it a matter of public record that in my opinion the state has made extremely poor selections to this point. One example to demonstrate this position is that in most cases the state and affected counties are receiving less revenue after ownership by the state than when the land was owned by the federal government!

The main element of Project Bold, to exchange most existing "checkerboard" sections of state lands with the federal government had as its' premise -- and promise, to make the lands more maneagable for the state, enable the state to make its' decisions on land use without interference from the feds, to "chart its' own destiny" and to increase revenues from such lands for the benefit of the schools.

This premise -- and promise was a goal to which no one would be opposed if in fact it was real.

However, after more than two years of study and review I, along with most of the County Commissioners in the counties where most of the state lands are to be exchanged along with many others in the State of Utah are opposed to this wholesale exchange called Project BOLD or "Big Ole Land Deal". Some of the reasons are as follows:

GRAZING

In many areas of the state there are insuffiecient private lands to meet the base land requirements to maintain a federal grazing lease. State lands are deemed to meet this need.

Many times supplementary feeding is necessary in drought or heavy snow conditions. Such activities are usually prohibited on federal lands but can be carried out on the state sections.

In many cases water development and range rehabilitiation projects are not allowed to be carried out on federal lands but can be on the scattered state lands to the benefit of cattle and wildlife and to the entire grazing unit.

PAYMENT IN LIEU OF TAXES

As drafted, the bill provides that the federal government will continue to make PILT payments on exchanged lands irrespective of current provisions of the law. Although I would favor this provision if the bill ever passes, it would, in my opinion, create serious problems by setting a precedent which may seriously distort the national PILT program. If not adopted, it would cost the State of Utah nearly one million dollars per year with a potential yearly cost of nearly three million.

Blocking will increase management costs. Present revenues from surface use of state lands is less than one million per year. Costs for surface management are about two million. If another million is added for state Pilt, the yearly cash flow loss for surface use will be two million. Hardly the way to increase revenues!

MINING - LOCATABLE MINERALS

The State of Utah presently has undisputed ownership of all locatable minerals on state lands. The state will lose this value in most cases but will not gain similar property rights on acquired federal lands on which mining claims exist of which there may be as many as 25,000. There is no way to estimate the ultimate loss to the state with respect to this issue.

The owner of a mining claim also has the ultimate right to patent and gain surface ownership which further clouds any state claim to such ownership.

The bill requires the state to assume the responsibilities of the federal government with respect to such claims. There will also be annual increased costs, loss of locatable mineral values, and no revenue. Again, hardly a way to increase revenues as was the original promise of Project Bold!

The Governor believes mining claim owners will relinquish their claims for a preference lease from the state. This would require an annual rental payment to the state plus a royalty payment of from four to eight percent of the gross proceeds.

I have been an owner of mining claims for more than 35 years and have also held state mineral leases. Under no circumstances would I relinquish mining claims to the state for a lease and know of no mining claim owner who would.

STATE LAND BLOCKS NEAR NATIONAL PARKS

Many of the prosed blocks of state land are near National Parks, Monuments, and etc.

The past twenty years has seen the demise of the Kaparowitz Power Plant, IPP at Salt Wash, coal mining disallowed at Alton, Henry Mountains, and Kaparowitz. Even oil and gas drilling and other activities have been slowed or precluded. Presently groups are opposing and trying to stop oil shale, tars and bituminous sands, and other developments in some of these areas. The Governor of Utah is himself leading the oppositin of even studies and testing to determine the suitability and safety of a spent nuclear fuel repository at a site near Canyonlands National Park which would be a four billion dollar project provide 1,000 direct jobs for 40 years.

If he and his supporters are successful, along with the past history of killing virtually all economic development in Southern Utah, there will be practically no chance of any significant develpment on the blocked state lands as proposed in Project Bold.

The Governor is leading the effort to set the precendent to block needed ecomonic development in Southern Utah for which the entire state will suffer for many years in the future.

BLM WILDERNESS STUDY AREAS

There are many WSA's in Southern Utah. During the next few years decisions will be made on which areas will be designated and which will be released to multiple use.

In my opinion, if state lands are left as they are during this process, some areas with a number of state sections may not be considered for wilderness which otherwise might be. In this case, surrounding federal lands would also remain multiple use from which the state receives 50 percent of the revenue. Such land would otherwise produce no future revenue or resources for either the state or the nation.

In the case of areas with state lands and high wilderness values, such state sections with rights of access and development for the states as adjudicated under the Cotter Case would provide the necessary leverage for the Congressional Delegation and Governor to achieve adequate exchange for appropriate value for the state at that period in time more advantageous than wholesale blocking now.

MISCELLANEOUS

Cloud seeding has been carried on throughout the state for a number of years. In most cases the silver iodide generators have not been allowed to be placed on federal lands. In many cases the scattered state sections have been utilized for this purpose. Blocking such lands could effectively eliminate this program in many areas where it is needed the most.

Removing the scattered state sections leaves many areas of the state with solid federal ownership. While I am not very much concerned with the land management under the present administration, I would be extremely concerned under a future administration which might adopt the management philosophies of the some past Administrations. In such a scenario, there may be no leasing development, or production on such lands and the state would get no revenue from their 50 percent share of federal revenues.

SPLITTING OF ENERGY REVENUES

As presently drafted, the bill calls for a split ownership on all exchanged lands. Under the present conditins, the state loses revenue. Under the scenario state above, this disparity and loss by the state could be accelerated in the event of a leser effort of development by the federal government than by the state.

There are many people in Utah who have previously supported the concept of Project Bold based on the premise and promise of more state autonomy and revenue, but now have serious questions. I am submitting copies of two news articles which reported the Natural Resources Committee of the Utah Legislature's near unanimous vote to request the latest draft not be introduced for consideration without further study. I am also submitting copies of resolutions signed by many of the County Commissioners in the counties most affected by this proposal.

If Project Bold is to have any further consideration, there should be extensive study, hearings and revisions.

Mr. Chairman, this concludes my remarks. I may wish to submit further information for the record. I will be happy to respond to any questions. Thank you.

RESOLUTION

WHEREAS, the State of Utah has more than 100,000 acres of land owed to it as indemnity in lieu lands from the Federal Government, and whereas, some state lands are "locked up" from beneficial use in federal parks, monuments, recreation areas, and other federal single use preserves.

WHEREAS, separate and in addition to the State lands and entitlements heretofore noted, the State of Utah has thousands of acres of "checkerboard" lands, nominally sections 2, 16, 32, and 36 in each Township.

WHEREAS, this "checkerboard" pattern of State ownership has served the State well in the past and is even more critically important to maintain in the future with respect to:

A. Being used as base lands grazing.

B. The only lands in many areas where it has been possible to rehabilitate and improve grass production, build reservoirs and serve as sites for cloud seeding generators.

C. Provide access to State lands for energy, mineral, and surface development (Cotter Case), and thereby maintain access and development in many cases for the remaining 32 sections of federal land in each township which might otherwise be lost.

D. Maintains the federal base for payment-in-lieu of taxes.

WHEREAS, "blocking" lands merely for the sake of such blocking will increase management cost for the State, require State payments in lieu to Counties, and yield little or no more revenue for surface values.

WHEREAS, a "checkerboard" position is considered by people in the industry to be more valuable than a "blocked" position in areas of unknown mineral or energy resources.

NOW THEREFORE, be it resolved that the State of Utah pursue with diligence the selection of all indemnity lands, and the exchange of all State lands which are presently locked up in federal single or no use areas and to select and/or block such lands to maximize State revenues and to facilitate development of oil, gas, minerals, coal, tar sands, oil shale, bituminous sands and other resources.

Be it further resolved that all "checkerboard" State lands be maintained as they are and to be exchanged only and/or blocked on a case by case basis that resolves all problems of such blocking and that is approved by the Counties involved and is demonstrably in the interest of the people of the State of Utah.

Adopted by the individual Commissioners and Counties of Utah as follows:

____
______________ County Commission

____
______________ County Commission

____
______________ County Commission

RESOLUTION

WHEREAS, most of the land in Utah counties is owned by federal and state governments and,

WHEREAS, counties are required to provide law enforcement, fire protection, roads, medical services, libraries recreation, public health and other services and,

WHEREAS, land and improvements on such land owned by federal and state governments are exempt from taxation by local governments and therefore the burden is borne by private land and property owners and,

WHEREAS, the federal government, recognizing this impact, has enacted a federal "payment in lieu of taxes" law as part of a "good neighbor policy" to help pay their way and,

WHEREAS, the federal government also provides free use permits for resources and free rights of way for counties, cities and the state for public purposes and land at $2.50 per acre for recreation and public purposes and,

WHEREAS, the State of Utah wishes to implement "Project Bold" which involves the acquisition of some 223,000 acres of indemnity lands, exchange about 400,000 acres of state lands which are within federal single use reservations and of little value to the State, and a general proposal to consolidate present State sections of land and,

WHEREAS, the State of Utah does not make payment in lieu of taxes to counties to help pay costs of services and,

WHEREAS, State lands pose a larger burden on counties than do federal lands,

NOW THEREFORE, be it resolved that the Legislature adopt a comprehensive payment in lieu of taxes bill which compensates all counties in a reasonable amount for all lands owned by the State.

BE IT FURTHER RESOLVED, that counties will not support "Project Bold" until and unless such action is taken.

BE IT FURTHER RESOLVED, that each county should be in agreement with any land acquired by the state or traded for other land in such county.

adopted by County Commissioners at
a meeting in Salt Lake, Feb. 17, 1983

RESOLUTION ON PROJECT BOLD,

THE BLOCKING OF STATE LANDS FOR EXCHANGE OF FEDERAL LANDS
1981
ANNUAL CONVENTION

BE IT RESOLVED BY THE ELECTED OFFICIALS OF THE UTAH ASSOCIATION OF COUNTIES:

WHEREAS, the Governor of Utah and the U.S. Secretary of Interior have agreed to pursue the possibility of exchanging federal lands located within the state for state owned lands; and

WHEREAS, such possible exchange anticipates a "blocking" of state lands for purposes of making exchanges;

NOW THEREFORE, BE IT RESOLVED that support by the Utah Association of Counties of such exchanges is dependent upon a resolution of the following concerns prior to the negotiation of any exchanges:

1. That management policies and practices of the Division of State Lands be clearly formulated and defined in cooperation with local officials and address among other issues: Organizational structure, range and degree of public accountability, disposition of lands to private ownership, land use authority over state lands either administered for state uses or leased for private use, rangeland management, cooperative processes by which county land use ordinances may be addressed regarding the use of state lands within counties, etc.

2. That the effect of exchanges on revenues currently being received by counties by virtue of the existence of federal lands in those counties be clearly determined and defined so county governments do not lose revenue by such exchanges.

3. That a mechanism be established providing that mineral lease and other revenues produced from lands that come into state ownership by exchange be shared with local governments through such as the community impact account.

4. That agreements exist which define effects and policies on private lease holdings, permit holders, unpatented mining claims, cloud seeding generator placement, on ranchers base of lands for grazing purposes when the base of state and private lands provides access to federal lands for grazing purposes.

5. That proposed exchanges affect individual counties relatively equally in terms of relationships between privately and publicly owned lands.

6. That agreements exist prior to exchange which define accessibility to lands for purposes now facilitated by the existence of state owned sections situated within federal acreages.

7. That lands which have been previously applied for by local governments but not yet acquired from the federal government be excluded from proposed exchanges.

8. Access to federal lands not be diminished by blocking for exchange of state lands.

9. That whatever is recommended to the State Land Board for final adoption be approved by the 29 counties individually as it affects their jurisdiction.

Adopted by the Utah Association of Counties at its General Business Session of its 58th Annual Convention on Friday, June 26, 1981, in Park City, Utah.

Utah committee seeks to delay Project BOLD

By Joseph Bauman
Deseret News staff writer

Project BOLD, Gov. Scott M. Matheson's proposal to put 5 million scattered acres of federal and state land into more manageable blocks, suffered a major setback Wednesday when an important Utah House of Representatives committee voted to ask the state's congressional delegation to delay the measure for now.

The Legislature's House Energy and Natural Resources Interim Committee recommended against proceeding with a plan by Sen. Jake Garn, R-Utah, and other members of the delegation to introduce a substitute Project BOLD bill when Congress reconvenes next week. Committee members said they want more information before going ahead.

The substitute was needed because the staff of the new Interior secretary, William Clark, wanted guarantees that the state would not make a windfall profit out of the deal.

Bob Weidner, Garn's legislative assistant, told the Legislature's Joint Energy and Natural Resources Interim Committee that if the substitute is not introduced next week, not enough time will remain in this session for a hearing.

That means the bill won't go forward until next year. He indicated Garn would not want to pursue the measure next week without the state group's approval.

Although the meeting was of the joint committee, not enough state senators were present for a quorum, and only the House side took action.

Nearly all of the committee members expressed serious concerns about the new changes, which make the exchange different from that originally supported by the Legislature in a 1983 resolution.

Ralph Becker of the Office of Legislative Research said mineral losses to the state could be $1.2 million for the first year, except that the Interior Department promises to exchange valuable properties that would make the deal even. He said a significant development is that mineral revenues will be split differently than under the previous

Also, the Interior Department now won't agree to administer the thousands of unpatented mining claims that Utah would inherit with the federal land. Becker said the claims would not be hard to manage, because federal computer programs could be duplicated.

Pat Garver, a lawyer representing the Utah Mining Association, however, took a sharp exception to the statement about the ease of administering unpatented mining claims. If Utah wants to clear title to any of the claims, it will have to go through an expensive process of surveying, examining the resource, taking testimony from experts, holding a bearing and going to court, he said.

In addition, the property will be perpetually burdened with the inherited, unpatented mining claims. He said the state estimates 5,000 of these claims are on the tracts it would receive from the federal government, but the mining association believes there could be as many as 25,000 of the 20-acre claims.

Owners of the claims will forever have the right to patent them, meaning they can take surface possession and develop their underground resources.

If that happens, "The state will just flat-out lose the land that's patented," he said.

He said the association is withholding endorsement of the new bill, "because we felt there were too many unanswered questions."

San Juan County Commission Chairman Cal Black argued strongly against the Project BOLD consolidation, saying the scattered state sections give Utah land managers valuable leverage for opening up development of surrounding federal land that otherwise could be designated wilderness.

He also objected to 30,000 acres of state land in San Juan County within the Navajo Reservation becoming federal property.

"Why do we want to add that much to the Navajo Reservation?" he said. Black added that Utah had already given up land exchanged for acres on the Arizona side of the reservation. The Navajos let that land go so Page, Ariz., could be de-

DALTON RED BRANGUS

BAR MK RANCHES
Post Office Box 576
Monticello, Utah 84535
Phone 801-587-2723

As a lifetime rancher of San Juan County, Utah, I am really opposed to Project Bold for the following reasons:

1. Already San Juan County, Utah has over 20% of its land taken out of multiple use. Only 8% of the county is deeded. The environmentalists want to take a lot more land out of multiple use. If Project Bold goes through, it will be a lot easier for the federal government to take the land and give it to the back packers. They already have more land for their special use than they will ever use. They still have a right to back pack the whole county except for the 8% of deeded land; on most of that they could back pack if they asked permission.

2. The scattered school sections give the county and state some say over the land and how it is used. Without the scattered sections, the people of the State of Utah and San Juan County are at the complete mercy of the federal government on how the land is used. They will have no leverage at all.

3. I have owned permits on federal land all of my life. It is the only title to the land you can get. Over the years the federal government has got more restrictive on the use of land. It almost take an act of Congress to build a stock pond. I have developed water on state land in areas where I was not allowed to do so on federal land.

4. If the State of Utah wants any say on what happens to the land in the state, they better keep the scattered school sections.

MELVIN K. DALTON
SAN JUAN COUNTY, UTAH

I have been asked to make a statement on my feelings on the Bold Proposal. I am a business man and a rancher in San Juan County and have lived here all of my life. My father before me was a user of federal range and prior to that my grandfather and great grandfather used the federal range and the state lands for their ranching operations. I feel that the present division of state land is desirable. It gives the state and the user of state lands a broad cross section of the lands in the state thereby making it so the state shares equitably in all of the resources and is not confined to a one area tract where the benefits might be very good then take away from the benefits that the federal government might benefit from or it could be very bad and thereby not getting their fair share. Another reason for not wanting to enact the Bold legisation is that it would create in the state a complete new bureaucracy and I feel the staffing and the overhead of this bureaucracy would bring to the state a large expediture that would not compensate the school funds in as profitable a way as they are presently compensated. Another reason is that many of the farmers, ranchers and mining interests have spent hundreds of thousands of dollars on building up the lands that they leased and I feel like it is imperative that if these lands are traded out from under them that they be compensated for the money that they have put in them. I realize that their argument against this is that they still get to use the land whether they are federal range or state lands which is true but years ago I borrowed money to impove state lands under lease to me. The purpose for doing this had many facets. One being that I need an alternative to the federal range. At the present time if I need to get off federal range I can put my livestock into the state lands and hold them for a while which is a distinct advantage to a livestock operator. The checks and balance in the present set up seems to compliment both the federal range and the state range because it makes it so that they have to cooperate and learn to compliment each other. So to summarize, I am opposed to the Bold Proposition. I think it would be a detriment to the state, I think it would be a detriment to the rancher in most cases and a detriment to the federal government.

Respectfully,

Lisle L Adams

Lisle G. Adams

UTAH MINING ASSOCIATION

POINTS OF CONCERN
Senate Bill S-2949 - Project Bold

According to information received from Tony Bevinetto, of the staff of the subcommittee on Public Lands and Reserved Water, Committee on Energy and Natural Resources, United States Senate, there are two (2) pending bills in the Senate related to Project Bold: S-2471 -- a bill introduced on March 22, 1984 by Senators Garn and Hatch; and S-2949 -- a bill introduced on August 10, 1984 by Senators Garn and Hatch. Substantial differences exist between the two bills. We are orally informed by the Deputy Director of the Office of Planning and Budget for the State of Utah, Ralph Becker, the Project Bold Coordinator for the State Administration, that it is really S-2949 the State is supporting. Based on this information, we suggest the following points to be addressed in oral testimony:

1. Project Bold will result in less efficient minerals management at greater expense to both the United States and the State of Utah. In effect, each entity, the State of Utah and the United States, respectively, will have a voice in management of lands for which mineral revenues are to be shared. The question is who will have the controlling voice in those management functions? Also, duplicative expense would appear to be involved in performing those management functions.

The United States will likely encounter substantial difficulty in attempting to manage the myriad of state mineral leases that exist on the scattered lands Utah desires to exchange for blocked up areas of federal lands. Careful evaluation should take place by both the federal government and the State of Utah and of the potential management problems and expense before either entity proceeds with this legislation.

In addition, a substantial analysis will be required under existing federal legislation, including, but probably not limited to, NEPA, Endangered Species, Air and Water Quality Management, Minerals Management Policy, Historic and Archeological Resources and consistency with federal land management policies and impact on small businesses and local governments.

2. Proponents of Project Bold initially guaranteed to the citizens of the State of Utah and other public lands users that vested rights would be carefully protected under any exchange procedure. This has not been done.

(a) S-2471 contained some specific language that would help to provide that protection. (Sec. 7(a)).

(b) Section 6(c), Protections of Rights of S-2549, now merely states that the holder of rights in lands exchanged may convert those rights to "equivalent new rights". Such language does not guarantee protection of existing rights assured by proponents of Project Bold.

(c) Section 8 discusses "protection of hard-rock mineral rights". Basically, it provides that the owner of a valid, existing claim under the general mining laws of the United States shall no longer have his claim adjudicated by the federal sovereign, but will either have to convert his claim to a state mineral lease requiring the payment of royalty and rental to the state or be subjected to administration by the state under the general mining laws of the United States. This contravenes existing federal law applicable to all citizens.

(d) Under federal law, in the event an unpatented mining claim is terminated or abandoned, the land again becomes available and open to location. Under a state administration the extinguishment, abandonment or declaration of invalidity for any reason, would serve to clear the state's title to the land.

(e) The question seems appropriate as to whether or not the State of Utah is capable of even handedly administering the general mining law of the United States in regard to an existing unpatented mining claim when it serves to profit by any action on its part which would accomplish the extinguishment, abandonment or declaration of such claim as being null and void.

(f) Also, substantial legal questions are raised as to the state's authority to administer federal obligations.

(g) Further, the development of the two (2) standard administration system of mining claims under S-2949 to treat those who own unpatented mining claims in the State of Utah differently than those who own unpatented mining claims in other states, all purportedly under the same federal law, raises serious constitutional issues on equal protection under the law.

3. The United States holds the legal title to the land on which an unpatented mining claim is validly located in trust for the beneficial owner, the mining claimant. The proposed legislation may also constitute a violation of the federal governments trust responsibility in this respect. The duties of a sovereign to fully protect the valid existing rights of its citizens do not seem to be adequately protected on either side in this proposed legislation.

4. S-2949 contemplates that the exchange procedure will be effective upon the signature of the Secretary of the Interior and the approval of the executive of the State of Utah. Inasmuch as the impact of this Bill would substantially alter existing rights of public land users within the State of Utah, approval of the exchange should also include the act of the State Legislature following the passage of the statute. The state legislature should be the last word relative to whether or not this legislation is in the best interests of the State of Utah.

Although the State Legislature has previously indicated interest in the concept of Project Bold by virtue of a resolution passed in the 1982 Legislature, it did so prior to exposure to any proposed legislation. Thus, the approval process should include the analysis and approval by the State Legislature of any proposed legislation.

5. The complete departure of S-2949 from previously reviewed legislation at public hearings and the inadequate language protecting the rights of existing public land users requires field hearings throughout Utah prior to this Committee's adoption of S-2949.

6. The UMA has long supported the elements of the Project Bold proposal that would exchange the interests of the State in lands situated within national parks, national monuments, military reservations, Indian reservations, and other federal enclaves. However, there seems little need to enact additional legislation to accomplish such exchanges because of the present exchange procedures that are contained within the Land Management and Policy Act of 1976 (the BLM Organic Act) which Congress enacted to provide orderly procedures in administering federal lands. The UMA opposes the wholesale exchange of Utah's scattered state lands. An explanation of this position is

contained in the written comments to be placed in the record of this hearing.

7. As a matter of fact, when the Project Bold concepts were first voiced, the real impetus for it was to accomplish the selection of the in lieu lands owed the State of Utah since statehood under its Enabling Act. As of the end of the year, it appears that all in lieu selections will have been accomplished in accordance with existing procedures available under present law. Thus, that basic impetus for this kind of legislation no longer exists.

8. Further difficulty with the wholesale exchange of lands contemplated by S-2949 is that neither the United States nor the State of Utah knows what it is either giving up or obtaining in the exchange. Sound logic suggests that careful analysis of values, both surface and mineral, should be investigated and determined prior to enactment of such legislation.

9. Another unknown factor that will be of consequence in the proposed legislation is the use to which lands acquired by the State of Utah are utilized. Under the Utah Enabling Act of 1894, the state lands were dedicated for the support of the public school system. We refer you to Section 14 on Page 19 of S-2949 which now states that lands granted for the support of the common schools and any other lands exchanged for such lands under SB-2949 or otherwise may be managed by the state under such multiple use land management practices as the state deems appropriate, including use at less than fair market value for public purposes by agencies of the state and its political subdivisions. Thus, this legislation would eliminate the mandate of the Utah Enabling Act and permit use and land management practices that depart from the dedication of the lands for the support of the public school system.

The Project Bold legislation undermines a solemn bilateral compact between the State and Federal government established by the Federal School Land Grant Program (see One Third of the Nations Land, a report to the President and to the Congress by the Public Land Law Review Commission, page 244 (1970)).

Senator WALLOP. Thank you very much, Mr. Black.

Mr. Dehiya.

STATEMENT OF ALFRED DEHIYA, DIRECTOR, OFFICE OF NAVAJO LAND DEVELOPMENT, NAVAJO NATION, WINDOW ROCK, AZ

Mr. DEHIYA. Mr. Chairman, members of the subcommittee, my name is Alfred Dehiya, and I am a director of the Office of Navajo Land Development for the Navajo Nation. I appreciate the opportunity to present to you the position of the Navajo Nation on Senate bill 2471 which impacts on the Utah portion of the Navajo Indian Reservation.

There are an estimated 46 school sections of land which lie within the boundaries of the Navajo Nation Indian Reservation in Utah. Senate bill 2471 provides for these sections to be taken in trust for the Navajo Tribe by the United States.

The Navajo Nation supports this bill because, one, these tracts within the reservation have created longstanding management problems for the Navajo Tribe, the State of Utah, and the Federal Government.

Two, Navajos live on and use these lands. They make no distinctions among these school sections and trust land, and in fact have traditionally occupied and used these lands for residences, livestock, and religious purposes.

Congress in 1933 when it authorized this addition to the Utah portion of the Navajo reservation explicitly provided for Utah to relinquish these school sections in favor of the Navajo Indians and in exchange gave Utah the right to select other unreserved and nonmineral lands, contiguously or noncontiguously located within the State of Utah, equal in area and approximately of the same value to that relinquished.

Four, because it is a cumbersome and expensive process, there have been few such relinquishments accomplished under authority of the 1933 congressional act. Senate bill 2471 would allow for an expeditious and efficient transfer of these lands to the United States in trust for the Navajos consistent with Utah's goal of addressing its large, long standing management problems.

The Navajo Nation, however, has learned of a move to amend Senate bill 2471. Two of the proposed amendments are of the greatest concern to the Navajo Tribe. The Navajo Nation opposes any amendment to these definitions which will transfer these lands to the United States in trust for the Navajo Tribe.

The Navajo Tribe opposes any changes in Senate bill 2471 that would cause any interest in State lands identified within the reservation to be transferred to the Bureau of Land Management. The Bureau of Land Management is not the appropriate agency to govern Navajo tribal citizens.

Finally, the Navajo Tribe supports an amendment to Senate bill 2471 that would transfer the existing Bureau of Land Management lands within the Utah portion of the reservation to the United States in trust for the Navajo Tribe. The Navajo Tribe requests that the Congress transfer both surface and subsurface interests of State and Bureau of Land Management lands pursuant to the intent of the original 1933 legislation.

I would like to have permission to submit additional comments for the record.

Thank you for your consideration of my comments, and I am pleased to answer any questions that you might have.

Thank you.

[The prepared statement of Mr. Dehiya follows:]

TESTIMONY OF THE NAVAJO TRIBE ON SENATE BILL 2471 THE "UTAH FEDERAL AND STATE LAND MANAGEMENT IMPROVEMENT ACT OF 1984," BEFORE THE PUBLIC LANDS AND RESERVED WATER SUBCOMMITTEE OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

OCTOBER 2, 1984

Mr. Chairman, members of the Subcommittee, my name is Alfred Dehiya, and I am the Director of the Office of Navajo Land Development for the Navajo Nation. I appreciate the opportunity to present to you the position of the Navajo Nation on Senate Bill 2471 which impacts on the Utah portion of the Navajo Indian Reservation.

There are an estimated 46 school sections of land which lie within the boundaries of the Navajo Indian Reservation in Utah. Senate Bill 2471 provides for these sections to be taken in trust for the Navajo Tribe by the United States.

The Navajo Nation supports this bill because:

1. These tracts within the reservation have created long-standing land management problems for the Navajo Tribe, the State of Utah and the Federal Government.

2. Navajos live on and use these lands. They make no distinctions among these school sections and trust land, and in fact, have traditionally occupied and used these lands for residences, livestock and religious purposes.

3. Congress, in 1933, when it authorized this addition of the Utah portion of the Navajo Reservation, explicitly provided for Utah to relinquish these school sections in favor of the Navajo Indians, and in exchange gave Utah the "right to select other unreserved and non-mineral public lands, contiguously or noncontiguously located within the State of Utah, equal in area and approximately of the same value to that relinquished. . . . (47 Stat. 1418, 1419, March 1, 1933).

4. Because it is a cumbersome and expensive process, there have been few such relinquishments accomplished under authority of the 1933 Congressional Act. Senate Bill 2471 would allow for an expeditious and efficient transfer of these lands to the United States in trust for the Navajos, consistent with Utah's goal of addressing its large, long-standing land management problems.

The Navajo Nation, however, has learned of a move to amend Senate Bill 2471. Two of the proposed amendments are of the greatest concern to the Tribe. These amendments would provide that:

"Federal land" means any land or interest in land owned by the United States, but does not include Indian Tribal or Trust Land. (Section 3(d) of the proposed Revised Bill.)

"System" means the National Park System, the Wild and Scenic River System, the National Wildlife Refuge System, the National Trails System, the National Wilderness Preservation System, Military Reservations, and public lands as defined by the Federal Land Policy and Management Act of 1976 (43 USC 1701 et seq.). (Section 3(f) of the proposed Revised Bill.)

These amendments would exclude lands lying within Indian reservations from the Bill. The effect of these amendments would be to halt transfer of lands to the Tribe as provided under the 1933 legislation. These are lands on which citizens of the Navajo Tribe reside, upon which the Tribe has invested substantial funds for water and infrastructure development, and where effectively the sole governing authority has been the Navajo Tribe.

The original definitions read:

"Federal land" means any land or interest in land owned by the United States.

"System" means the National Park System, the Wild and Scenic River System, the National Wildlife Refuge System, the National Wilderness Preservation System, Military Reservations, Indian Reservations and Trust Land, and public lands as defined by the Federal Land Policy and Management Act of 1976 (43 USC 1701 et seq.).

The Navajo Nation opposes any amendment to these definitions which would exclude transfer of these lands to the United States in trust for the Navajo Tribe.

The Navajo Tribe opposes any changes in Senate Bill 2471 that would cause any interest in State lands identified within the Reservation to be transferred to the Bureau of Land Management. The Bureau of Land Management is not the appropriate agency to govern Navajo Tribal citizens.

Finally, the Navajo Tribe supports an amendment to Senate Bill 2471 that would transfer existing Bureau of Land Management lands within the Utah portion of the Reservation to the United States in trust for the Navajo Tribe. The

Navajo Tribe requests that Congress transfer both surface and subsurface interests of State and Bureau of Land Management lands, pursuant to the intent of the original 1933 legislation.

I would like to have permission to submit additional comments for the record.

Thank you for your consideration of my comments and I am pleased to answer any questions you might have.

Senator WALLOP. Thank you, Mr. Dehiya. By all means you can add additional testimony.

Ms. Cahn.

STATEMENT OF NINIBAH MORGAN CAHN, SUPERVISOR, TITLE SECTION, NAVAJO NATION LAND DEVELOPMENT, WINDOW ROCK, AZ

Ms. CAHN. Mr. Chairman, members of the subcommittee, my name is Ninibah Morgan Cahn. I am with the title section of the Navajo Nation Land Development.

I, too, appreciate the opportunity to present testimony before you on Senate bill 2471. We just learned yesterday that you had an additional bill introduced by the same parties—2949. We would like to request to submit additional comments on 2949.

Senator WALLOP. By all means.

Ms. CAHN. I would like to inform you that the Utah lands that are in question right now are within the boundaries of the Navajo Indian Reservation to which this bill relates, and are home to the Navajos. Long before the passage of the 1933 legislation providing for transfer of these lands to the United States in trust for the Navajo Tribe, these were the ancestral lands of the Navajos.

Indeed, the 1933 act was from this vantage point a legislative ratification of existing fact because in 1933 these lands were inhabited, cultivated and used by Navajos as they had been for centuries.

The land use by Navajos in the Utah portion of the Navajo Indian Reservation remains relatively the same as before 1900. According to the 1980 census, 5,300 Navajo Indians live in the Utah portion of the Navajo Indian Reservation. As of 1984, Navajo use and occupancy in Utah according to a recent survey conducted by my office reveals that all of the Utah State school sections are used and/or occupied by Navajos. The residents do not distinguish between these and the trust lands.

All the lands that are targeted for transfer have places that are sacred, and all the places contain ancient religious sacred shrines. To a place-specific religion as the Navajos have, the land is integrally significant to one's daily life. Most of the plants growing here are used for medicinal and/or religious purposes. In addition, each family's practice of worship creates associated points where offerings have been made, ceremonies held, materials gathered in preparation for worship.

Land use rights are based on the traditional kinship, heirship pattern. All the lifetime residents can trace their ancestors directly to the traditional occupants prior to 1900.

The basic economy of the Navajo residents here is raising livestock—sheep, cattle, and horses—and many Navajos have small farms and gardens.

Thus far infrastructure development on the Navajo Reservation is extensive. Water for domestic, culinary and livestock use is acquired through use of windmills, wells, springs, dikes, and dams developed and maintained by the Navajo Nation. Modern domestic water systems have been developed in several places.

There are tribally owned parts in addition to numerous campgrounds and trails, tribal fish and wildlife program. There are airports, clinics and the hospital, trading posts. There are two high schools, eight pre schools, innumerable archeological sites, historic monuments throughout the area.

Gentlemen, this is a brief description of land use and occupancy in the Utah portion of the Navajo Reservation. Tribal occupany is well established and documented. Longstanding management problems arise from the failure to transfer these lands to the Navajo Tribe. The 1933 act of Congress expresses an explicit intent that the State of Utah relinquish school lands within the Navajo Indian Reservation to the Navajo Tribe by exchanging them for other public lands within the State.

The Navajo Tribe, however, believes that it will be more appropriate for these State lands to be transferred to the United States in trust for the Navajo Tribe by the bill before you, rather than go through what has proven to be a time consuming and costly process under the 1933 act.

Clearly the amendments before the subcommittee redefining the legislative terms, "Federal land" and "system" would in effect halt any such transfer, yet neither BLM nor the State of Utah has the knowledge or has developed sensitivity on Navajo traditional use and occupancy property rights or sacred affiliation to be able to administer these lands.

The tribe also opposes reservation of the subsurface estate to the Bureau of Land Management or any other entity for this would be done with a clear intent that should subsurface resources of value be discovered, BLM would have the authority to lease or sell the rights to the subsurface estate which may result in relocating the Navajo residents. Whatever benefit BLM or any other entity might hope to secure for the U.S. Treasury would be small in comparison with what the American taxpayers would pay to have to mitigate impacts on the relocatees.

We now have, with the relocation of the Navajos from the Navajo joint use area a substantial case history of the effects of relocation and displacement on the traditional Navajos—the fragmentation of traditional family life, the increased infant mortality, alcoholism, and suicide cases.

The Navajo Tribe, therefore, opposes any amendment that would halt transfer of these lands to the tribe as intended by Congress in 1933, or would separate the surface and the subsurface estate.

Thank you for your consideration. We brought a map[1] to show the location of the school sections within the Utah reservation, and in addition, we also brought our tribal councilman, and I would like to introduce Mr. Billie at this time from the Utah portion of the Navajo Reservation. Councilman?

[The prepared statement of Ms. Cahn follows:]

---

[1] The map was retained in subcommittee files.

TESTIMONY OF THE NAVAJO NATION ON THE "UTAH FEDERAL AND STATE LAND MANAGEMENT IMPROVEMENT ACT OF 1984" BEFORE THE PUBLIC LANDS AND RESERVED WATER SUBCOMMITTEE OF THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

October 2, 1984

Mr. Chairman, members of the Subcommittee, my name is Ninibah Morgan Cahn, and I am the Supervisor of the Title Section of the Navajo Department of Land Development. I appreciate the opportunity to present testimony to you on the position of the Navajo Nation on S. 2471.

The Navajo Tribe through its Tribal Council supports the original Bill, Section 3, Numbers (4) and (6), and opposes any amendments to these sections.

The Utah lands within the boundaries of the Navajo Indian Reservation to which this bill relates are home to the Navajos. Long before passage of the 1933 legislation providing for transfer of these lands to the United States in trust for the Navajo Tribe, these were the ancestral lands of the Navajo. Indeed, the 1933 Act was, from this vantage point, a legislative ratification of existing fact -- because, in 1933, these lands were inhabited, cultivated, and used by Navajos as they had been for centuries.

Land use by Navajo residents in the Utah portion of the Navajo Indian Reservation remains relatively the same as before 1900. According to the 1980 Census, 5,300 Navajo

Indians live in the Utah portion of the Navajo Indian Reservation. As of 1984, Navajo use and occupancy in Utah, according to a recent survey conducted by my office, reveals that all of the Utah State School Sections are used and/or occupied by Navajos. The residents do not distinguish between these and trust lands.

All the lands that are targeted for transfer have places that are sacred and all places contain ancient religious-sacred shrines. In a place-specific religion, as the Navajos have, the land is integrally significant to one's daily life. Most of the plants growing there are used for medicinal or religious purposes. In addition, each family's practice of worship creates associated points where offerings have been made, ceremonies held, materials gathered in preparation for worship.

Land use rights are based on the traditional kinship, heirship pattern. All lifetime residents can trace their ancestors directly to the traditional occupants prior to 1900. The basic economy of the Navajo residents here is raising livestock: sheep, cattle, and horses. Many Navajos have small farms and gardens.

Infrastructure development on the Navajo Reservation in Utah is extensive. Water for domestic, culinary and livestock use is acquired through use of windmills, wells, springs, dikes and dams developed and maintained by the Navajo Nation. Modern domestic water systems have been developed in several places.

There are three tribally owned parks in addition to numerous campgrounds and trails. The Navajo Fish and Wildlife Program is administered by the Tribe throughout this area.

There are three airports, several clinics and a hospital. Five trading posts serve the residents. There are two high schools and at least eight pre-schools.

Five paved highways connect in this area and the region is crossed by secondary dirt roads and trails connecting homes to major arteries and bus routes.

Innumerable archeological sites and some historic monuments are located throughout the area.

Gentlemen, this is a brief description of land use and occupancy in the Utah portion of the Navajo Reservation. Tribal occupancy is well established and documented. Long standing land management problems arise from the failure to transfer these lands to the Navajo Tribe. The 1933 Act of Congress expresses an explicit intent that the State of Utah relinquish school lands within the Navajo Indian Reservation to the Navajo Tribe by exchanging them for other public lands within the State (Act of March 1, 1933, ch. 160, 47 Stat. 1418,1419). The Navajo Tribe, however, believes that it would be more appropriate for these State lands to be transferred to the United States in trust for the Navajo Tribe by the Bill before you, rather than through what has proven to be a time consuming and costly process under the 1933 Act.

Clearly, the amendments before this Subcommittee redefining the legislative terms "Federal Land" and "System" would in effect halt any such transfer. Yet, neither BLM nor the State of Utah has the knowledge of or developed sensitivity to Navajo traditional use and occupancy, property rights, or sacred affiliation to be able to administer these lands.

The Tribe also opposes reservation of the subsurface estate to BLM, for this would be done with the clear intent that should subsurface resources of value be discovered, BLM would have the authority to lease or sell rights to the subsurface estate, which may ultimately result in relocating Navajo residents.

Whatever benefit BLM might hope to secure for the U.S. Treasury would be small in comparison with what the American taxpayer would pay to have to mitigate impacts on the relocatees. We now have, with the relocation of Navajos from the Navajo-Hopi Joint Use Area, a substantial case history of the effects of relocation and displacement on traditional Navajos: the fragmentation of traditional family life, the increased infant mortality, alcoholism, and suicide rates.

The Navajo Tribe therefore opposes any amendment that would halt transfer of these lands to the Tribe or would separate the surface and subsurface estates.

Thank you for your consideration of my comments, and I am please to answer any questions you might have.

Senator WALLOP. Are you to present testimony, too?

Mr. BILLIE. Yes, sir.

Senator WALLOP. OK. We didn't have you down, but we will give you your 3 minutes.

Mr. BILLIE. I appreciate the time, Mr. Chairman.

STATEMENT OF ROBERT R. BILLIE, NAVAJO TRIBAL COUNCIL DELEGATE, MONTEZUMA CREEK, UT

Mr. BILLIE. Members of the committee, the audience, the Utah delegation, Senator, and the Governor, as a resident of the Utah portion of the Navajo Reservation, my name is Robert Billie, a Navajo tribal councilman from Anna, UT, and in the past I haven't missed a registration to vote, so I identify myself as a legal Utah resident and a citizen.

In reference to the efforts to this, the BOLD project, I do appreciate the extent of the bill, and the people in my area in the past has been wondering when is it going to take place as far as within the Navajo Reservation where the Utah State has the school section? These people that live on this land has been thinking it is their land, but however, if you go into the legal legality that you would identify that these State lands is belonging to the State, and the people there is uneducated, and they are confused because they have been living there. They have had religious ceremonies and they have religious area that they identify for a long time, so when this bill came about, the people does support and appreciate that something in time is going to happen, and we do appreciate the Senator and others that are supporting this bill when it was originally, that was introduced, namely, Senate bill 2471, but however, if any amendment has to be done, I think that will kind of jeopardize the intent, and we long for to see what the Navajo Tribe, Navajo Indian in Utah has been looking for, so I would encourage, not taking all your time, Mr. Chairman, even though I wasn't named on the report, but I was introduced and I appreciate the time, but just to make a long story short, as far as being a Navajo from Utah, I hope that the bill 2471, there would be approval of this to make into the law. If any amendment has to be made, I think we will be facing the same issue as from the beginning.

Thank you, Mr. Chairman.

Senator WALLOP. Thank you, Mr. Billie. Mr. Dehiya, you said that you had learned of a couple of amendments. Do you know where those are coming from? We have received none yet. That process hasn't gotten there yet, but we need to know who is proposing these amendments.

Mr. DEHIYA. We were told by the State of Utah, the BLM office, there were some proposed amendments, and we were given some kind of a draft copy of that amendment, and we referred to that saying there needed to be an amendment to change some of the definitions in the bill, original bill.

Senator WALLOP. Well, I am sure that there is time in the process that is established here to look at those things closely.

Mr. Black, the reservations that you have about it, are they fixable, or are you generally against the concept?

Mr. Black. No, Senator, I am not against the concept. In fact, when they first started it, they came out with a map showing the areas they wanted to select the land in. I have some concerns about the areas that I have talked about, those in the locatable mineral interests in the checkerboard lands, not having those lands for access, and maybe then the Federal land would be further restricted, and the State gets 50 percent of that, so even if you traded four sections out of the area that was suitable and you lost 50 percent of the proceeds from the subsurface on the other 30, 32 sections in a township, you couldn't possibly break even. I have no problem with the current administration and the policies of the BLM, but in the Carter administration or in future administrations if they get back to the no leasing, no development policy, then I see an area without the leverage of the checkerboard State lands which under the law and by virtue of the *Carter* case have the right of access, then those would be more likely to be locked up to where there would be no production in the subsurface, and that is about 95 percent of the revenue in the uniform school fund from school lands, and I guess also on Federal lands, so in that event, you would have a great loss from what half the State now gets from the other 32 sections if because of that they were locked up, and those things have actually happened.

And some of these areas are in wilderness study areas. Some of the blockings I have concerns with because they are blocking close to national parks and national monuments where in the past 20 years we have learned that nothing happens if they are close to those.

For instance, Senator Garn mentioned the coal. Well, if they are going to block an area that is in coal development, and other areas are blocked in those same areas, and you have the map showing that, there is one large block of land between the Canyon land and Arches and another right down by the Glenn Canyon Recreation Area, some others over by Bryce Canyon. The Henry Mountains area, there is an area that has been declared unsuitable for mining, and we know that IPP was stopped because it was 9 miles from the national park.

Presently some of the opponents of the development are trying to stop anything that is within view or within sound of a national park, and if most of the State blocks are in those lands, then I fear that there will be no development on those. Then by taking all of those scattered State sections which leaves the State of Utah access to those lands under the *Carter* case totally undeveloped under the Federal managers if they chose to do so, and all of the other costs in the bill that I see, the loss of locatable interest, the problems of grazing, the increased cost of management to the State of Utah, I don't see where the State gets more revenue.

In every single case all I see is where they get less.

Now in the case of blocking, I am not opposed to blocking for the half million acres locked up in national parks and monuments. Those bills should have never been passed without those having been traded out, and I am certainly in favor of that.

I am in favor of the indemnity selections that are about completed. I think they made some poor selections, and I am in favor of blocking to take care of the areas in the out area, and I think if the

Federal Government makes a decision that that is unsuitable for mining, then they shouldn't trade out those on a case-by-case basis, but I think there is far more cost and far more loss in blocking these lands up than in leaving them the way they are as a matter of policy of the wholesale blocking.

Senator **Wallop**. I guess differences of opinion can arise. It was expressed in Senator Garn's testimony that the State's leverage with regard to its lands didn't seem to have much purpose when it came to confronting the issue of the Federal Government's exercise of will. They didn't seem to have an economic interest. I think you would agree, knowing something about mining as you do, leverage isn't very strong if there isn't an economic interest that exists on the State land, and so you have none at all. Basically what you have is total loss.

Mr. **Black**. Let me suggest that that is not necessarily true. To the extent that we have no leverage as was the case in the Andrus situation, I would agree.

However, now that that is identified, then the State I believe should have the right administratively to exchange those lands out to an area that can be developed if the Federal Government is going to make that decision.

Senator **Wallop**. That would be the best of all worlds, but that world doesn't exist.

Mr. **Black**. Well, the problem I see with that, that those—let's assume all of the areas that are blocked as I indicated are right next to preserved areas. With park protection legislation pending, with integral vista legislation and now we understand the Department of Interior——

Senator **Wallop**. But those are ghosts.

Mr. **Black**. Is going to go in to put it out by rule and regulation, then those areas in huge State blocks might be declared unsuitable for development, and then what will the State do?

In the areas where they make parks and recreation areas, the history in Utah is that we begged for it, and although the legislation provided that they be exchanged, in my opinion, if we had had the knowledge and the experience that we should have now, we would say those areas should not be designated until those lands have been traded out. Then I think we have never used it.

Let me give you another example.

Senator **Wallop**. Quickly.

Mr. **Black**. Out west of the community I live in, it has a State lease on it, on a State section within it. Shell Oil Co. applied for a drilling permit. They went through the BLM. It was approved based on the right of the State of access that was clarified under the *Carter* case.

The environmental groups appealed that, the IBLA. I believe they ruled against that, and now it is going through the courts. Now it may or may not be approved for access and have the test well for oil and gas, but I can assure you that if that State section was not in there, there would be no permit for oil and gas until the resolution of that issue is dealt with.

One other thing the Governor indicated that he was Governor of a third of the State. The county I live in is 8,000 square miles, a little larger than the whole State of New Jersey. Only 8 percent of it is privately owned. The rest of it is State and Federal land, and I am as concerned with huge areas of Federal block land without the State checkerboard lands if and when the Federal Government ever again adopts the management policy of the Carter administration.

Senator WALLOP. Thank you, Mr. Black. We appreciate it, and I thank you all, Ms. Cahn, for coming.

Let me indicate for the record, in taking care of S. 2949, we would appreciate hearing your commentary on those.

Ms. CAHN. Thank you.

Senator WALLOP. The second panel is the Honorable Norman Bangerter, speaker of the Utah House of Representatives; Honorable Fred Finlinson, Utah State senator from Utah; James White, county commissioner from Box Elder County.

The panel is larger upon examining the second page. The next is also part of the panel—Chandler St. John, Utah Board of State Lands and Forestry; deputy director for the Utah State Office of Planning and Budget, Mr. Ralph Becker; director of the State Lands and Forestry, Ralph Miles.

Mr. Bangerter.

STATEMENT OF HON. NORMAN H. BANGERTER, SPEAKER OF THE UTAH STATE HOUSE OF REPRESENTATIVES, WEST VALLEY CITY, UT

Mr. BANGERTER. Mr. Chairman, I am pleased to be here today to testify on behalf of S. 2949, the Project BOLD legislation.

As a lifelong resident of the State of Utah, as a homebuilder, and having served 10 years in the Utah State Legislature, including two terms as speaker of the house of representatives, I have come to realize that Utah is one of those States where the land is still supremely important.

Unlike those States which are industrialized and the lands are privatized, the stability of our economy and our community is dependent upon the prudent use of the Federal and State lands that make up so much of our State. Like the famous characters in "Gone With the Wind," we draw our strength from the land, and we recognize that without it, we have nothing.

The lands are Utah's greatest natural resource, but our children are our greatest treasure. Utah, like so many states, is struggling to find the means to better educate its children. If we can maximize the economic return from our lands, the children in our State will benefit.

In recognition of these facts, the Utah State Legislature is always looking for ways to improve the management of our State lands. In 1983, the general session of the 45th legislature unanimously passed a resolution endorsing the objectives of Project BOLD. That resolution asks the Congress to enact legislation to exchange State land holdings and Federal domain in the State of Utah to create larger, more manageable units of State and Federal lands.

I congratulate Governor Matheson and the members of the Utah delegation who have worked so diligently to put together the current Project BOLD, S. 2949. The hundreds of hours and dozens of meetings have resulted in a piece of legislation that comes close to fulfilling the intent of the Utah Legislature's 1983 resolution.

As so often happens, however, the process of filling out the details of a major piece of legislation results in many questions being raised. As the Governor and his staff have undergone the process of developing a Project BOLD bill, many concerns have been raised by citizens, government officials, and interest groups regarding specifics in the bill. I am not certain that all of those concerns have yet been totally addressed by the bill, and for this reason, I appreciate this hearing and others that will undoubtedly follow because I am sure those concerns will be aired.

I encourage the members of the subcommittee to be responsive to those concerns and work cautiously to develop a final Project BOLD bill that will satisfy the interests of all of the people in the State.

I thank you for the opportunity to appear today. I hope the Congress will continue to work with the State to pass a piece of legislation that will allow the long-term prudent development of our State lands for the betterment of all of our citizens.

[The prepared statement of Mr. Bangerter follows:]

TESTIMONY PREPARED FOR SPEAKER NORMAN H. BANGERTER. BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER, SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES ON S. 2949 - THE PROJECT BOLD BILL

Mr. Chairman, members of the Senate Subcommittee on Public Lands and Reserved Water, I am pleased to be here today to testify in behalf of S. 2949, the Project Bold Legislation.

As a life-long resident of the State of Utah, as a homebuilder, and having served ten years in the Utah State Legislature, including two terms as Speaker of the House of Representatives, I have come to realize that Utah is one of those states where the land is still supremely important.

Unlike those states which are industrialized, and the lands are privatized, the stability of our economy and our communities is dependent upon the prudent use of the federal and state lands that make up so much of our great state. Like the famous characters in "Gone With the Wind," we draw our strength from the land, and we recognize that without it we have nothing.

The lands are Utah's greatest natural resource, but our children are our greatest treasure. Utah, like so many states, is struggling to find the means to better educate its children. If we can maximize the economic return from our lands, the children in our state will benefit.

In recognition of these facts, the Utah State Legislature is always looking for ways to improve the management of our state lands. In 1983 the General Session of the Forty-fifth Legislature unanimously passed a resolution endorsing the objectives of Project Bold. That Resolution asked the Congress to enact legislation to exchange state land holdings and federal domain in the State of Utah to create larger, more manageable units of state and federal lands.

I congratulate the Governor of Utah, Scott Matheson, and the members of the Utah Delegation who have worked so diligently to put together the current Project Bold bill, S. 2949. The hundreds of hours and dozens of meetings have resulted in a piece of legislation that comes close to fulfilling the intent of the Utah State Legislature's 1983 Resolution.

As so often happens, however, the process of filling out the details of a major piece of legislation results in many questions being raised. As the Governor and his people have undergone the process of developing a Project Bold bill, many concerns have been raised by citizens, government officials and interest groups regarding specifics in the bill. I am not certain that all of those concerns have yet been totally addressed by S. 2949. For this reason I am grateful for this hearing, and the others that will undoubtedly follow, because I'm sure those concerns will be aired. I encourage the members of the Subcommittee to be responsive to those concerns and work cautiously to develop a final Project Bold bill that will satisfy the interests of all of the people in the State.

I thank you, Mr. Chairman, for the opportunity to appear before you today. I hope that the Congress will continue to work with the State of Utah to pass a piece of legislation that will allow the long-term, prudent development of our State's lands for the betterment of all of Utah's citizens.

Senator **Wallop**. Thank you, Mr. Speaker.
Senator Finlinson.

STATEMENT OF HON. FRED W. FINLINSON, UTAH STATE SENATOR, MURRAY, UT

Senator **Finlinson**. Senator Wallop, it is a pleasure to be here with you. I should footnote that Speaker Bangerter is the Republicans' candidate for Governor in the State of Utah.

Senator **Wallop**. You introduced him.

Senator **Finlinson**. I have to do it if I want to get any legislation.

As the chairman of the senate energy and natural resources committee of the State of Utah, our committee has followed closely BOLD. I have a prepared text which I am submitting to you and hope that it will be submitted as part, entered as part of the record.

To summarize within your 3-minute rule, I think I would like to maybe find out where you got that model and use it in our own committee.

The interesting pattern dealing with the ownership of the land can be kind of interesting. The BLM owns 42 percent; the Forest Service 15; other Federal agencies, 12, for a total of 69 percent. The State has 7 percent, so that the Government ownership is 76 percent, and that leaves the remaining 24 percent in private hands to support basically those kind of Government activities that we support from the property tax. That checkerboard pattern and the isolated tracts in that land pattern indicate how important it is to the legislature because we have, as Speaker Bangerter indicated, have to come up with the financing of our governmental functions, and we basically put over half of our State budget into the public education program.

Therefore, the need is very critical for us to maximize the contribution that we can make toward our education from those public lands.

Legislative history—we have been involved in this project since basically 1981 in the monitoring mode. In 1982 we passed a piece of legislation that, for local governments, that ensured them that in the event there was a change in the money that they received and the payment in lieu of taxes from the Federal Government as a result of Project BOLD, that the State would hold them harmless and make sure that from their share of the money that the county would not suffer as a result of the transfer.

In 1983, we passed two pieces of legislation—a concurrent resolution No. 6 which authorized the Governor and the Board of State Land and Forestry to prepare this proposal to initiate the change based on comparable land values, and to do what we could to protect the existing rights of both the State and the Federal landowners, existing owners, and we also passed House bill 3217 which set into law many of the policies that you have been talking about that would protect the multiple use of the lands, that would allow the State by law to honor those Federal rights that would be involved, and as well as the permits and lessees, and even recognized the fact of the unpatented mining claim.

We have monitored several times, and in October again our committee will be meeting with the State Land Law Review Commission so that Utah will be prepared on its portion so that when the transfers come about for negotiating the transfer, that we will be able to make Project BOLD a success in our State.

I thank you very much for the opportunity to be with you today.

[The prepared statement of Senator Finlinson follows:]

Statement By

Fred W. Finlinson

Utah State Senator

On S. 2949

Before the Subcommittee on Public Lands and Reserved Water

Committee on Energy and Natural Resources

Senator Malcolm Wallop, Chairman

October 2, 1984

Mr. Chairman, I am Fred Finlinson, Chairman of the Senate Energy and Natural Resources Committee of the Utah State Legislature. I greatly appreciate the opportunity to appear before you today to address S. 2949, a monumental State effort to consolidate and exchange our landholdings. In my capacity as Chairman of the Utah Energy and Natural Resources Committee, I was particularly active in this proposal to work work for passage of legislation in the State Senate in 1983, and in following its development through our Interim Committee, which stays abreast of important state issues between sessions of our Legislature.

The State of Utah consists of 85,000 square miles. Sixty-nine percent of the Utah's land is owned by the Federal Government. Most of that is under the jurisdiction of the Bureau of Land Management (42 percent) and the Forest Service (15 percent). Private entities own 24 percent while the State owns only seven percent.

Utah, like all Western States, received land grants at statehood to provide revenue for support of public schools. The Utah land grant included four one square mile sections scattered within each 36 square mile township throughout the state. This grant pattern was designed to provide the state with a representative cross-section of lands and resources. Because of this process the state of Utah owns 3.7 million acres in almost 5,000 isolated, scattered land parcels. Almost 400,000 acres of state land exist as inholdings in national parks, monuments and recreation areas, military and Indian reservations, national forests and other federally reserved lands where the state has virtually no management capability. The remaining state acreage exists primarily in isolated 640-acre sections intermingled among BLM lands. As a result the existing land ownership configuration does not allow the state to effectively manage its lands and fails to provide any significant financial support to the public school system.

In an attempt to solve this problem, the state of Utah proposed in 1980 a land consolidation and exchange proposal called "Project BOLD." The objective is to exchange approximately 2.5 million acres of 640 acres of state sections currently scattered among federal lands, for about 50 larger blocks of land of equivalent value.

Significant public input over the last three years has given the project broad-based State support. The State first created a steering committee which supervised the early development of the project and the efforts of work groups who gathered information about the exchange. The State then went through a series of scoping meetings in 1981 to get an early reaction to the concept. As a result of the public meetings the State drafted issue papers covering each of the key issues identified: resource values, criteria for land acquisition, disposition and retention, grazing, state land management, minerals, etc. The draft papers were then reviewed by a diverse 150 member advisory council. Revised issue papers, as well as alternative state selection areas, were published in an alternatives document in the fall of 1982 and distributed to interested parties in Utah and across the nation.

This extensive public input process led to overwhelming support for Project BOLD by the Utah Legislature in 1983. In that year's General Session two important measures received nearly unanimous approval. First, House Concurrent Resolution 6 authorized the Governor and the Board of State Lands and Forestry to prepare the statewide exchange and consolidation proposal for Congress. Specifically, the resolution recommended the following:

1. That the Congress of the United States enact legislation to exchange state landholdings and federal domain in the State of Utah for large, manageable units of state and federal land after careful evaluation which reflect geographic diversity and a diversity of potential resources uses, and to consummate state indemnity selections as proposed by the State of Utah through the Board of State Lands and Forestry and the office of the Governor, which are statutorily empowered to transfer state lands.

2. That Congress complete the exchange on the basis of comparable land values, recognizing the full mineral, surface, scenic, recreational and other values, which are inherent in the lands involved in the exchange, and that careful value determinations be based on information which is readily available.

3. That the State, through Utah legislative action, policies of the Board of State Lands and Forestry, and Congressional action, fully protect all existing rights and uses on State and Federal lands, assuring that all users, including lessess, permittees, and mining claimants receive protection for their vested interests, and that their rights and privileges not be adversely affected by the exchange.

4. That the State include as part of any federal legislation, a revision in the Utah Enabling Act which would clarify the intent of the State land grant to empower the State to practice the best multiple-use land management practices, including the flexibility for the Board of State Lands and Forestry to authorize the use of State lands for public purposes by local governments at less than fair-market value, where those public purposes are in the public interest.

5. That any amendment to the Utah Enabling Act preserve the school trust funds as the sole beneficiaries of revenues derived from the administration of State trust lands.

6. That the Board of State Lands and Forestry and the office of the Governor develop a proposal for Congress in consultation with the Energy and Natural Resources Study Committee of the State Legislature, units of local government, federal land managers, and public land users.

Second, House Bill 327 amended the State Land Code in the following manner:

1. Requires the Board of State Lands and Forestry to establish comprehensive land management policies for state lands using multiple use-sustained yield principles, consistent with school trust responsibilities.

2. Allows the State Land Board to sell public land to the State's political subdivisions at less that the appraised value provided that it is for public purposes, and in the best public interest.

3. Requires the State Land Board to honor all leases, permits, contracts and terms and conditions of user agreements on any lands acquired from the United States. This includes permitted stocking rates, grazing fee levels, access rights, and all existing activities that currently or historically have dictated an understanding of usage between the land user and the Federal Government.

4. Requires the State to honor improvements of the permittee or lessee to the land acquired from the Federal Government.

5. Lands acquired through exchange or indemnity selection from the Federal Government shall be subject to the vested rights of unpatented mining claimants under the Mining Law of 1872 as amended, and vested rights, both surface and mineral, under other Federal statutes.

I should note that the second point in H.B. 327, providing for less than fair market value returns to the school trust for public purpose uses of the trust lands by subdivisions of the State would only be legally effective when Congress passes this legislation. This positive change in State law would be pre-empted by the Utah Enabling Act, which does not give the State flexibility to charge less than fair market value for public purpose uses of State lands.

Since passage of State legislation in 1983, the Interim Committee on Natural Resources and Energy has had several briefing sessions on the status of the Project and we have also received and commented on decision papers, draft legislation and other points of interest to the State. We have recently established a Subcommittee to focus more closely on the developments and issues related to the Project. I am pleased with the progress of the Project.

The Energy and Natural Resources Committee of the Utah State Legislataure will continue to monitor Project BOLD and participate in issues at the state level. I understand that our obligations relative to Project BOLD in the State Legislature may very well continue by responding to Congressional action. I wish to thank you, Mr. Chairman for the opportunity to express my support for S. 2949.

Senator **Wallop**. Thank you, Senator Finlinson.

Commissioner White.

Would you educate your neighbor and show me the geography of Utah and show me where Box Elder County is?

Mr. **White**. Right up here, Mr. Chairman.

STATEMENT OF JAMES J. WHITE, COUNTY COMMISSIONER, BOX ELDER COUNTY, GARLAND, UT

Mr. **White**. Thank you, Mr. Chairman. It is a pleasure for me to be here today. You have my statement, and for the sake of time I would like to condense my remarks.

In 1981 the Governor of the State of Utah, Governor Matheson, appointed Don Chase the commissioner, Don Chase, the chairman of my commission, to a steering committee, and Mr. Chase couldn't be here today, and we felt in Box Elder County this was so important that someone should be here, and so very happily I accepted the assignment to appear here and make my statement along with the statement of Mr. Chase. He as a member of the steering committee traveled up and down the State of Utah many times. He visited in all 29 counties with all of the commissions in the State of Utah, and drew from these people a great deal of input from the local government.

He also had another 10 meetings with an alternative document referred to as the "Green Book" on land exchanges and considerations and alterations that could be made.

I feel and he feels that local government officials and others had a fair chance to, an ample opportunity to give their input into this bill.

He worked very hard along with his committee in accomplishing these things. Now you have heard this morning there are commissions who are not in favor of this bill, but there are also many commissions who are in favor of this bill, and so Box Elder County strongly endorses the legislation before you.

In our view, Project BOLD, S. 2949, creates substantial land management benefit and will improve the management of the public lands in our county. Project BOLD is good for Utah and is good for Box Elder County.

We have consulted regularly with our public land users and after explaining the proposal, have found that there is solid support for Project BOLD.

We are a large county of approximately 3.8 million acres, and we are owned approximately 70 percent by the State and Federal Government. Our public lands are grazed extensively, and this proposal has drawn considerable interest from our ranchers, and the proposal has been worked through those livestock organizations in Box Elder County. Land users' rights are well protected through this legislation.

Now as you have heard, there are concerns. One, of course, is the payment in tax in lieu, or the PILT Program which we in Box Elder County have to be very concerned about, but as we have studied it, we feel that there would be no net increase in PILT payments by the Federal Government in Utah, though there could be a variation in which counties receive Federal payments because of the change in the State and Federal land ownership patterns. As counties, this provision is critical to support this legislation.

I should note that the State legislature, recognizing this problem that could be created if the change went through without this provision, have passed the PILT Program for exchange lands on the State land, but that program would be limited to losses in PILT payments in counties and is not designed to carry the Federal Government's responsibility for PILT payment.

Let me express my appreciation to this committee for the opportunity to testify on this landlord piece of legislation. Box Elder County wholeheartedly endorsed the States efforts and in responding to local government needs and the benefit that would be achieved to Utah and the public lands from completing the land exchange and consolidation proposed. Improving the land status is healthy for Utah and our county, and it is a big step forward.

It is common sense to get your lands in a managable configuration, and I urge this committee to make the topic a high priority for early consideration in your next Congress.

Thank you.

[The prepared statement of Mr. White follows:]

Statement By
James J. White
Commissioner
Box Elder County, Utah
On S. 2949
Before the Subcommittee on Public Lands and Reserved Rights
Committee on Energy and Natural Resources
Senator Malcolm Wallop, Chairman
October 2, 1984

Mr. Chairman, it is a pleasure to appear before you today to discuss S. 2949, the Utah State and Federal Land Management Improvement Act of 1984, known in Utah as Project BOLD. As a former state legislator and present County Commissioner, I have been following Project BOLD with interest for the almost four years it has been developing. Today I appear before you as a County Commissioner. My fellow Box Elder County Commissioner, Don Chase, has been an active participant in the development of Project BOLD. My testimony today reflects as well the views of Box Elder County and the experience of Don Chase, who was unable to come to Washington for this hearing.

From the inception of Project BOLD, local governments have been actively involved. In my experience in the public's business, I have never seen a State proposal (or a Federal proposal) that has gone to the extent of this project to seek the involvement of local governments and the public. When the concept of a massive state land consolidation and exchange program was presented to the public in 1981, Governor Matheson appointed a Steering Committee to manage and direct the early development of the Project. Box Elder County Commissioner Don Chase was appointed to serve on that Steering Committee representing local government, and has spent hundreds of hours since that time representing local government interests in the development of the Project. In the earliest conceptual development, local governments were asked to submit proposals for areas the state should consider acquiring, and issues that should be addressed.

When the state held public meetings across Utah to identify issues that needed attention in the Fall of 1981, special efforts were made to draw input from local governments. I am pleased to say that local governments provided more information than the state could probably absorb and analyze. After those scoping meetings state officials, often accompanied by Commissioner Chase, travelled the state from end to end visiting with every county commission in Utah -- twenty nine in all -- reviewing the proposal and going over input. Local governments also were placed on the Advisory Council to Project BOLD, and as draft papers were prepared on the various issues in Project BOLD, local governments had an opportunity to respond to those papers, and several did respond.

In the Fall of 1982, a second set of public meetings were held on Project BOLD. This time the state held ten public meetings across Utah on an alternatives document, referred to as the Green Book. Lands to exchange were considered and issues were identified with alternative solutions suggested. Again local governments participated and we met often with state officials as they travelled across Utah for public meetings.

As decisions were made regarding Project BOLD by the Board of State Lands and Forestry, papers on preliminary proposals were again sent out and many local governments responded with recommendations and opinions -- we are never short of opinions in local government. Finally, the legislative drafts for the Congressional legislation were distributed to us for comment, and we tried to keep pace with developments. In summary, as a local government official, I feel that we have had ample opportunities to participate in the development of Project BOLD. We may not agree with every decisions that the State has made, but we have been able to participate in the development of this landmark proposal.

Box Elder County strongly endorses the legislation before you. In our view Project BOLD and S. 2949 create substantial land management benefits and will improve the management of the public lands in our county. Project BOLD is good for Utah and is good for Box Elder County. We have consulted regularly with our public land users and, after explaining the proposal, have found that there is solid support for Project BOLD. We are a large county, approximately 3.8 million acres, and we are owned approximately 70 percent by the State or Federal Governments. Our public lands are grazed extensively, and this proposal has drawn considerable interest from our ranchers, and the proposal has been worked through those livestock organizations in Box Elder County. Land user rights are well-protected through this legislation.

There are also substantial benefits from Project BOLD to local governments as a whole. For decades, state and local governments have been at odds over local government use of state land. I understand that the state school trust requires that the state receive a fair market value return on its lands, regardless of whether that land is used for a public purpose and to the benefit of the state. This is in Federal law that creates the State of Utah, the Utah Enabling Act. While Utah should of course receive a good return on the use of its lands, there is unfairness that results with local governments, and at times, state agencies. The state must charge an appraised value when local governments construct a road across state land, remove gravel for maintenance of state and local roads, and develop communications towers critical to the health and safety of the state's citizens. While the County makes its facilities available for free to highway patrol, driver education, school board, and other State users, the Board of State Lands and Forestry has no choice but to charge us a fee for using state land. This is particularly grating on local government officials because we can use federal lands for public purposes for free or for a small fee.

Understanding and accepting this legal fact of life has been difficult for us in local government. In fact, most local gaovernments do not understand why the state of Utah cannot treat local governments with fairness on the use of state lands for public purposes. This has been the cause of needless friction between state and local governments. The Enabling Act change would pave the way for an improvement in this situation.

Another element of critical concern to local governments in the Project BOLD exchange is the potential impact on payment in lieu of taxes resulting from the transfer of federal lands receiving payments to state lands, for which there is no PILT program. An exemption in the Federal PILT program excludes the lands the federal government would acquire from payment in lieu of taxes because the state lands are not currently taxed. In order to maintain the status quo of the PILT program in Utah, that exemption would be removed as it applies to this exchange. The impact on the Federal Government would be negligible. There would be no net increases in PILT payments by the Federal Government in Utah, though there could be a variation in which counties received Federal payments because of the changes in State and Federal land ownership patterns. As counties, this provision is critical to support for this legislation. I should note that the State Legislature, recognizing the problems that could be created if the exchange went through without this provision, has passed a PILT program for exchanged lands on state lands. But that program would be limited to losses in PILT payments in counties, and is not designed to carry the Federal Government's responsibilities for PILT payments.

In conclusion, let me express my appreciation again to this Committee for the opportunity to testify on this landmark piece of legislation. Box Elder County wholeheartedly endorses the State's efforts in responding to local government's needs and the benefits that would be achieved to Utah and the public lands from completing the land exchange and consolidation as proposed. Improving the land status is healthy for Utah and our County, and is a big step forward. It is common sense to get your lands in manageable configurations, and I urge this Committee to make this topic a high priority for early consideration in your next Congress.

Senator WALLOP. Thank you, Commissioner White.
Mr. St. John.

STATEMENT OF CHANDLER P. ST. JOHN, MEMBER, UTAH BOARD OF STATE LANDS AND FORESTRY, SALT LAKE CITY, UT

Mr. ST. JOHN. Thank you, Mr. Chairman. I am Chandler St. John representing the Utah Board of State Lands and Forestry. It is a citizen board appointed by the Governor.

We establish policy for the management of State lands in accordance with the provisions of the enabling act, the constitution of Utah, and the State law, and adopt such rules as necessary to fulfill the purposes of this mandate.

We have strongly supported the concept of Project BOLD since its inception because we view it as an opportunity to improve the land management protection of both State and Federal lands.

We have been criticized in the past for not doing a better management job on the State lands. Project BOLD will do much to expedite our raising the standard of management. Having been a public land manager myself for 33 years in the U.S. Forest Service and 4 years on the Utah board, I think that BOLD is landmark legislation. It is innovative, far reaching, farsighted, and creates great opportunity in management of our public lands.

The board has been deeply involved in the development of the BOLD proposal. We participated in many of the early scoping meetings and in the analysis of that early public input. We chaired each of the regional public meetings held around the State where the public evaluated our management alternatives. The legislative committee, four board members, participated in every session of the bill drafting and redrafting, and the full board reviewed each step of the BOLD process and approved every legislative draft.

Senate 2949 includes an amendment to the Utah Enabling Act which provides the management of the school trust lands of the multiple use management practices. The board has been very sensitive with the need to protect special natural and cultural resources found on school trust lands, and we had made management decisions in the past few years to establish a roadless area. We initiated management restrictions to protect rare and endangered species and animal species.

However, these board actions are not in strict conformance with our mandate to manage the State lands to provide an economic return to the school trust. Governor Matheson appointed the Utah Land Law Review Commission in March to completely revise and update Utah's land code which is badly outdated. That process will be completed this year.

Among the changes proposed in the code is establishment of a land bank which will enable us to substitute income-producing lands for school trust lands containing areas where there is special natural or cultural resources. In that way we can maintain the integrity of the school trust and at the same time provide protection to other key resources.

The modification of the enabling act coupled with the State code revision would help us achieve that goal.

Thank you, Mr. Chairman, for the opportunity to present this statement on behalf of the board.

[The prepared statement of Mr. St. John follows.]

PREPARED STATEMENT OF CHANDLER P. ST. JOHN, MEMBER, UTAH BOARD OF STATE LANDS AND FORESTRY, SALT LAKE CITY, UT

Mr. Chairman and Members of the Committee:

I appreciate the opportunity of presenting a statement today in support of S.2949.

My name is Chandler St. John. I am representing the Utah Board of State Lands and Forestry. This is a nine member, citizen board appointed by the Governor. The Board is the policy making body of the Division of State Lands and Forestry and advises the Division Director on the direction, management and control of all lands granted to the state by the United States government, or others, and of lands lying below the water's edge of any lake or stream to the bed of which the state is entitled. The Board establishes policy in accordance with the provisions of the Enabling Act, Constitution of Utah and state law and adopts such rules as necessary to fulfill the purposes of those mandates.

The Board has strongly supported the concept of Project BOLD since its inception, because we viewed it as an opportunity to improve the land management potential of both state and federal lands, eliminate many unnecessary conflicts, and increase substantially the financial return to the school fund by having the state lands consolidated into logical management units. We have been criticized in the past for not doing a better management job on state lands. The fact is that it is not possible to effectively manage lands that consist of 5,000 separate, isolated parcels. Project BOLD will do much to expedite our raising the standard of management to benefit the land and the people of Utah. As a manager of public lands in many of the western states for 33 years in the U. S. Forest Service, and four years on the Utah Board of State Lands and Forestry, I feel very strongly that BOLD is landmark legislation that is innovative and far-sighted, and it creates great opportunities in the management of our public lands.

The Board has been deeply involved in the development of the BOLD proposal. We participated in many of the early scoping meetings and in the analysis of that early public input. Board members chaired each of the regional public meetings held around the state when the "green" book alternatives were evaluated by the public and their comments were received.

The Board chairman appointed a legislative committee of four board members who participated in every session of bill drafting and re-drafting - first as a state effort and then after consultation with Department of Interior representatives. The full board has reviewed each step of the BOLD process and has critiqued and approved every legislative draft. I think this citizen board has demonstrated how committed it is to the BOLD concept, because its members appreciate how much help it could be to them in redeeming their public land management responsibilities.

S. 2949 includes an amendment to the Utah Enabling Act which provides for the management of the school trust lands under multiple use management practices. The board concurs in this proposal. We have been very sensitive to the need to protect special natural and cultural resources found on school trust lands, and we have made management decisions in the past few years to establish a roadless area, initiated management restrictions to protect the bear claw poppy, and set up a study area where gila monster and sidewinder rattlesnake habitat might have been threatened by a proposed development. However, these board actions are not in strict conformance with our mandate to manage these state lands so as to provide an economic return to the school trust.

Governor Matheson appointed a Utah Land Law Review Commission in March. 1984. That commission is to completely revise and up-date Utah's land code, which has been in existence (with many additions and conflicting modifications) since statehood. That process will be completed this year for submission to the state legislature in its 1985 General Session. Among the changes proposed for the code is the establishment of a "land bank" which will enable us to substitute income-producing lands for school trust lands containing areas where there are special natural or cultural resources referred to above. In that way we can maintain the integrity of the school trust and at the same time provide protection to other key resources. The modification of the Enabling Act coupled with the state code revision would help us achieve that goal.

Thank you, Mr. Chairman, for the opportunity to present this statement on behalf of the board.

Senator WALLOP. Thank you, Mr. St. John.
Mr. Becker.

STATEMENT OF RALPH E. BECKER, JR., DEPUTY DIRECTOR, UTAH STATE OFFICE OF PLANNING AND BUDGET, SALT LAKE CITY, UT

Mr. BECKER. Thank you, Mr. Chairman. I am Ralph Becker, and I have served as the coordinator of this project for the State of Utah since December of 1981.

Today I would like to spend just a little bit on the discussion that others have mentioned relating to the process we have used in developing this proposal.

From the beginning we have attempted to devise a process that would maximize input from all interested parties, all affected land users. In general, we have followed an environmental impact statement process with variations to reflect the circumstances in Utah, and the unique situation relative to this proposal. Let me outline quickly for you some of the steps that we have followed in developing the proposal.

It has been mentioned that early in 1981 after the Governor received some encouragement here in Washington, that a steering committee was formed to manage and direct the early development of the project. Work groups were assigned to expand upon the concept, and in the fall of 1981, seven scoping meetings were held across the State of Utah to identify issues, present solutions in areas that people would like to consider for selection and disposition.

After several months of working on the analysis of the comments and some potential solutions to all the rights protection and land selection issues, an alternative document was developed that again is quite similar to a draft environmental impact statement. There were 10 public meetings held across Utah at that time and several hundred copies were received in written and in oral form.

Early in 1983 the State legislature considered various aspects of the project and encouraged the State to move forward to the development of congressional legislation.

After working with the board of State lands and forestry for several months on some decision documents, a preliminary proposal was developed, and the public meeting, the 18th public meeting on this project, was held in June 1983 by the board of State lands and forestry.

After again many months of drafts and redrafts of legislation, in March of this year a bill was introduced or two bills were introduced in Congress. There has been continual refinement of the concepts represented in those bills on rights protection, on valuation issues, and the new bill, S. 2949, reflects those refinements.

Later this year we will publish a second document that will be a final document on the proposal as developed thus far, and that reflects the proposal, the areas, and the alternatives that we have followed.

In addition to the formal process that we followed, we have had hundreds, probably thousands of meetings across the State as has been referred to here.

I hope that this committee as it considers this proposal in coming years will look favorably on the action that has been taken and move this project forward.

Thank you.

[The prepared statement of Mr. Becker follows:]

Statement by
Ralph E. Becker, Jr.
Deputy Director, Office of Planning and Budget
State of Utah
On S. 2949
Before the Subcommittee on Public Lands and Reserved Water
Committee on Energy and Natural Resources
Senator Malcolm Wallopm Chairman
October 2, 1984

Mr. Chairman, I am Ralph Becker, Deputy Director of the Utah Planning and Budget Office, and have served as the Project BOLD Coordinator for the State of Utah since December, 1981.

Today I would like to expand on the Governor's comments in regards to the process we have followed in developing the State proposal for Congressional consideration. It has been the State's objective from the inception of Project BOLD to maintain an open, thorough process in developing a proposal for eventual Congressional consideration. We have recognized from the beginning that an effort to comprehensively consolidate the State's landholdings through an exchange with the Federal Government would require Congressional legislation, and that a proposal of this magnitude would inevitably be controversial. In pursuing a consolidation of State lands we have folowed procedures to maximize input from every conceivable affected government and agency, organization, and person in order to attempt to identify the full range of issues that would need to be addressed, alternative methods of addressing those issues, and reasonable solutions to the potential problems that could result from this endeavor.

We have patterned the process of making decisions in Project BOLD after the general approach taken for environmental impact statements under the National

Environmental Policy Act, altering that process and expanding upon it to reflect the unique nature of this proposal.

Early in 1981, after Governor Matheson determined to pursue a comprehensive statewide land consolidation and exchange through Congressional legislation, the Governor created a Steering Committee to direct the early development of the Project. Membership reflected a broad range of expertise and views. Work groups were established to begin identifying issues and areas that could be considered for eventual State consolidation. Over several months, these work groups met, consulted with local governments and interest groups, and developed potential scenarios for a statewide Federal/State land exchange.

The Board of State Lands and Forestry, responsible for policymaking on State lands, played a key role on that Steering Committee, and has served, with the Legislature, as the decisionmaking body for Project BOLD throughout its development. At each stage in the development of Project BOLD, the Board has conducted public meetings, and provided the policy direction for the land consolidation effort.

In the fall of 1981, seven public hearings were held across Utah to expose the concept of a land consolidation and exchange proposal to the public, to "scope out" issues that would need solutions, and to receive recommendations on potential means to solve the issues in an exchange. The results of those meetings were summarized in a narrative prepared by the Division of State Lands and Forestry and in a quantitative summary of the comments. More than a hundred oral and written comments were received, categorized by their nature, and used in the further development of Project BOLD. A summary of those efforts is located in Appendix II, of "Project BOLD: Alternatives for Utah Land Consolidation and Exchange."

The public hearings impressed on the State the need to devote considerable attention to addressing the issues in the Project and in the identification of lands for retention and disposition. An Advisory Council was created, consisting of virtually all interested parties to the exchange. Papers were prepared, identifying issues that would need attention through Project BOLD and discussing alternative ways to approach those issues. These papers were circulated to the Advisory Council for comment on local government issues, grazing issues, mineral issues, State lands and State land management, approaches to land valuation, and criteria for State land acquisition and disposition. During this period in the development of the Project, we also held an intensive, two-day interdisciplinary workshop on lands that should be considered for consolidation and exchange. We are appreciative to the Department of the Interior for their contributions in providing information and recommendations relative to State acquisition areas and the boundaries that would make good land management sense for the State and Federal Governments. Maps of areas being considered for consolidation were also distributed for preliminary comment.

Comments from the Advisory Council led to the revision of those papers and the compilation of materials prepared on Project BOLD in an alternatives document, "Project BOLD: Alternatives for Utah Land Consolidation and Exchange." In many respects the "Green Book," as it has come to be known, serves the same purpose as a draft environmental impact statement. Included in this document were the areas that the State was considering for acquisition and exchange, and descriptions of the physical characteristics, existing land uses, and potential land uses. This document was published in September, 1982, and followed by ten more public meetings throughout Utah, from Manila, which I believe thinks of itself as more closely aligned with Wyoming, Mr. Chairman, to Panguitch. Those meetings were recorded and transcribed. The meeting record is available in Utah, and I would be happy to provide copies to you, if you would find it useful to this Committee.

Following the public meetings, comments were analyzed, and preparations were initiated for decisions on the most appropriate direction for handling the plethora of issues. After thorough debate in Committee and on the Floor of the House, the Utah State Legislature in their 1983 General Session, acted by resolution and statute, to endorse the continued development of the Project for eventual Congressional consideration, and to direct multiple use land management policy as well as provide rights protection assurances for public land users affected by exchanges.

Throughout the spring and early summer of 1983, decision papers were prepared for the Board of State Lands and Forestry and the Governor in various topical areas. These papers were circulated to the Advisory Council. On the basis of staff recommendations, a preliminary proposal of principles to be followed in the development of Congressional legislation was prepared and distributed to the Advisory Council and a broader mailing list. In June of 1983, the Board of State Lands and Forestry held a special public meeting to receive comments on the preliminary proposal. The proceedings were recorded and transcribed. The next two monthly Board meetings were devoted to decisions on the makeup of Congressional legislation and the approval of areas to be included in the exchange proposal. The Board established a BOLD Legislative Committee of its members to assist in the drafting of legislation and in approving the final language recommended to the Utah Congressional delegation for introduction of legislation.

Over the next several months, legislative drafts were prepared and distributed for comment. Working with the Utah Congressional delegation, comments were reviewed and refinements were made throughout the fall of 1983.

During this same period of time, the State embarked on a detailed effort to value lands that had been identified for potential exchange. A group of the best experts in the State was assembled to consult with a similar group of Federal officials to devise a way to use available information and expertise about surface and mineral values. A mechanism was needed short of the traditional Federal appraisal process, which requires core drilling and development of detailed knowledge of surface and mineral resources, so that the State and Federal Governments could feel comfortable with an exchange proposal. After several head-jarring sessions, the group of experts formulated a process for placing values on the lands. The State was divided into regions of similar character for each major mineral producing resource, and a map was prepared displaying each of those major mineral-producing commodities, and indicating whether those commodities were of high, medium, or low value in the region. Subsequently, Federal and State acreages identified for potential exchange were counted for each resource and region value. Lands for exchange were altered to reflect the results of the valuation process. A computer printout that would cover much of this table is on file at the Utah Division of State Lands and Forestry, for those who wish to evaluate the exchange on the basis of this evaluation technique. The testimony of Ralph Miles, Director of the Division of State Lands and Forestry, will expand on my discussion of the valuation techniques and efforts.

Although the State received valuable input from the Department of the Interior in the development of the Project BOLD proposal, as the State and Utah Congressional delegation neared introduction of the legislation, new concerns surfaced and suggestions were given to the State on some major issues. In order to reflect on those comments, the Congressional delegation delayed introduction of a bill until 1984.

After several meetings with the Department of the Interior to comprehend the full scope of their recommendations, the Legislative Committee of the Board of State Lands and Forestry recommended some refinements of the earlier drafts and the Congressional delegation introduced S. 2471 and H.R. 5229 on March 22, 1984. We recognized at the time those bills were introduced that the State needed to further reflect on the Interior suggestions for change, and consider potential ways to work those recommendations into equitable and workable approaches.

Potential refinements were made to S. 2471 and H.R. 5229, and those changes were circulated in new draft legislation to an expanded Project BOLD mailing list for comment. The most significant of the refinements presented was the addition of the concept of revenue splitting, to substantially eliminate any risk of one government or the other unduly benefitting from the exchange. After receiving comments at two Board of State Lands and Forestry meetings, the Board recommended changes to the March Congressional bills and assigned its Legislative Committee to work with the Congressional delegation to draft the legislation that is before you today.

The preceding discussion of the State's process focuses on the formal steps that have been taken to develop a sound State proposal, and to assure maximum public involvement in the conceptualization and development of the proposal. What I have not discussed are the hundreds of meetings that have been held with individual Federal, State, and local government officials, land users and their organizations, public interest groups, and individuals. While no proposal of this kind can satisfy or please all concerned citizens, and the element of change will always bring a negative response from some members of our society, the development of Project BOLD has endeavored to always be open and responsive to the public lands constituency.

In an effort to complete the record on the proposal for Utah land consolidation and exchange to date at the State level, a document will be published before the end of the year which reflects the proposal, as introduced in S. 2949. Areas identified for exchnge will be described and decisions, as reflected in this bill, will be explained.

It should be noted that even after Congressional action, this exchange proposal would not become a reality until the State accepts the provisions of the Act. In addition, there are several ministerial steps for the State and Federal officials to exchange title to the properties agreed upon for exchange. The process of Project BOLD then, will continue for some time in the future should Congress adopt the exchange.

It is my hope, as one who has invested energy and time in this proposal, that in the next Congress, this Commitee will have an opportunity to fully explore the concept we have come to know as Project BOLD in Utah and make a land consolidation and exchange proposal a reality to the benefit of the State and Federal Governments.

Senator WALLOP. Thank you, Mr. Becker.

Mr. Miles.

STATEMENT OF RALPH A. MILES, DIRECTOR, DIVISION OF STATE LANDS AND FORESTRY, SNYDERVILLE, UT

Mr. MILES. Thank you, Mr. Chairman. I appreciate appearing before you today, and my name is Ralph A. Miles, director of the division of State lands and forestry, and since my job is to reinforce a couple of concepts that have been introduced here today, if I may step to the map, I would like to make my point better there.

I might say first as division director, I deal with the annual problems of the State lands every day, day in and day out.

Senator WALLOP. If you could just sort of hold that?

Mr. MILES. And I can tell you that I know of no other single effort that could be undertaken by the Federal Government or the State of Utah to put either of us in a better posture to effectively manage our lands more efficiently than we presently do.

We are looking basically at a project that was not haphazardly thrown together. We have staffed this project within the State consistently for 3½ years now. It has been given ample public hearing, and a great deal of staff work has gone into it.

We have mentioned that there are over 5,000 parcels of State lands. Most of them are completely surrounded by BLM, and that gives us a particular set of options, but as mentioned by the Governor and others, there are half a million acres still within the national parks, national monuments, Indian reservations, and within military reservations. There are a whole different set of options that are basically there in terms of State management.

This map shows you in red and in the dark blue the lands that we are proposing that the State acquire. The dark blue basically are lands presently in the State ownership that will stay in State ownership. The red are the BLM lands that we would acquire.

We knew at the beginning that we had an uphill fight in terms of proving that there was equity in this process. We knew that traditional valuation techniques would not work. We had to develop our own processes, and what we have come up with we are convinced, and I think we have convinced most people within the Department of the Interior, is an equitable exchange of property, and we did that basically through a resource-for-resource proposal, and what that really means is that the State winds up with the same number of oil shale acres that it had previously before blocking, the same number of acres of oil, of coal that it had before blocking. The difference is that those number of acres of coal are in a manageable unit now and can be effectively managed by the State of Utah.

If we want to lease them, we have a mineable operation or mineable size operation that we can leave. There had been some questions here today about whether there really is some benefit to blocking. Out in the Uinta Basin there are oil shale properties. The Bureau of Land Management, other than in some initial tracts early on, are not leasing for oil shale development. We had some firms interested in developing that particular synfuel.

We have put together now some blocks which those industries can pursue on a basis that hopefully will prove profitable, and that resource can move forward. We are looking in one of those tracts alone—it has been projected that there could be as much as $300 million in royalties just paid to the State of Utah as a result of that blocking alone. When they were scattered you couldn't even develop them.

We further then negotiated with the Department of the Interior on the revenue-sharing proposal, and if there was an inequity in the proposal before that concept was introduced, surely there cannot be now. Where we share revenues, the mineral revenues, on a 50-50 basis, I don't know how we can lose.

There is that one modification wherein the lands that we would leave within the national parks and within wilderness study areas, they probably will not be released by the Federal Government. They would not have a corresponding revenue to be shared with us, so we have traded out those 100 percent and will not share revenues and they will not be required to share revenues with us.

I thank you, Mr. Chairman.

[The prepared statement of Mr. Miles follows:]

PREPARED STATEMENT OF RALPH A. MILES, DIRECTOR, DIVISION OF STATE LANDS AND FORESTRY, SNYDERVILLE, UT

October 2, 1984

Mr. Chairman and Members of the Committee:

My name is Ralph A. Miles. I am the Director of the Division of State Lands and Forestry for the State of Utah. I am pleased to be able to address you today on S. 2949 because, in my capacity of dealing with State land issues in Utah on a day-to-day basis, the issues which we present to you today are very real to me. They are the challenges and disappointments with which I must continually deal. I am thoroughly convinced that the passage of S. 2949 will be of enormous benefit to both the State of Utah and the Federal Government.

This piece of legislation is a landmark effort which, if passed, will do more to help both the Federal Government and the State of Utah gain efficiencies in land management than any other effort I know of. Project BOLD has been carefully architected. Every issue encountered has been carefully and fully addressed; and every solution, I am convinced, reflects the best alternative available to us to accomplish the objective of enabling both the State and Federal Governments to better manage their own lands.

I would like to acquaint you with three of the more important elements of the process and try to give you a feel for the work that has been done and for the benefits that will accrue if this Bill is acted upon favorably by the Congress. These three elements are (1) criteria for land selection and disposition, (2) resource valuation, and (3) the revenue-splitting concept.

CRITERIA FOR LAND SELECTION

The State of Utah's proposal to consolidate and exchange landholdings with the Federal Government, Project BOLD, seeks to consolidate State lands into more logical and manageable blocks. Consolidation of the State's lands would also be of enormous benefit to the Federal Government because the consolidation would eliminate the State's scattered ownership in the public domain and remove State inholdings in important Federal reservations, such as military reservations, National Parks and monuments, Wilderness Study Areas, and Federally designated Unsuitability Areas. With its small scattered landholdings, State land management options are limited by Federal decisions on surrounding Federal lands and Federal land-management decisions are sometimes adversely affected by the presence of State inholdings.

The land ownership pattern often leads to conflicts between the State and Federal land managers over the use of specific lands. The dispute over development of the Alton coal field provides a recent example. The Alton coal field is located in Southern Utah, Northeast of the city of Kanab. A significant portion of low-sulfur coal reserves can be surface-mined, which makes Alton development more economically attractive than deep coal reserves in the same area. The Bureau of Land Management manages the Federal coal properties, including some existing leases. The State of Utah also owns a number of scattered State sections in the coal areas.

In November, of 1979, a group of citizens and environmental organizations petitioned the Secretary of the Interior to declare portions of the Alton field unsuitable for surface mining under provisions of the Surface Mining Control and Reclamation Act. The petition alleged difficulties in reclamation, impacts on water resources, and adverse impacts on Bryce Canyon National Park, which borders and overlooks the Northeastern portion of the coal area.

In December, of 1980, the Secretary of the Interior responded to the petition, agreeing that development of the easternmost portion of the field could impact the Park and declaring unsuitable for surface mining those lands that were visible from Park overlooks. This controversial decision is the subject of litigation that may take years to wind through the courts. In the meantime over 12,000 acres of State coal lands and over 5,000 acres of existing State coal leases are rendered useless by the Federal decision. These State sections, surrounded by Federal "unsuitable" lands, have been preempted from development because they are too small to support a mining operation without the development of adjacent Federal coal. An effort to exchange and consolidate State lands would limit these conflicts and establish manageable and developable blocks of State-owned lands outside of sensitive Federal areas.

In selecting lands for State ownership, the State must be cognizant of its school trust responsibilities. The Utah Enabling Act (Statehood Act) and the Utah Constitution dedicated certain lands granted to the State at Statehood to the support of Utah's schools. Since the great majority of State landholdings are part of this school land trust, the income from the management and use of those lands is devoted to the Permanent School Trust Fund and the Uniform School Trust Fund. Because Utah's State lands must be used to meet school trust responsibilities, the State proposed lands for exchange that will not conflict with those responsibilities.

The trust responsibility does not preclude broad multiple-use management. In the management of the State lands, the State seeks the variety of uses that can be accommodated on those lands, consistent with its school trust responsibilities. It is the long-term yield of State lands that in the long run will most benefit the school system.

By realigning and consolidating State landholdings, both the State and the Federal Governments will be in a more favorable position. Through more manageable blocks, the State will be able to more effectively administer its landholdings for a broad range of uses and concurrently increase returns to the school trust. The Federal Government in turn will not face the potential conflicts with State objectives on isolated inholdings and can more effectively manage Federal lands pursuant to Congressional direction.

I. Management Criteria

The State of Utah, in proposing lands for consolidation and exchange, has identified lands that are consistent with State land management directives, avoid lands with a special Federal-protected status, and attempt to accommodate local government and public land user objectives. The following discussion will guide State selections in serving to better manage Utah's public lands.

A. Eliminate Reservation Inholdings. Since Statehood in 1896, Federal reservations have been created for National Forests, various categories of

National park lands, the Department of Defense, Indian Tribe lands, and other sundry Federal purposes. The scattered State sections within these reservations have been precluded from uses other than those mandated by the Federal objectives. In nearly all instances, any State use or management of these lands has been precluded. The State has attempted to accommodate the larger National interest, pursuing the exchange of these inholdings through the existing administrative processes. These efforts have been singularly unsuccessful. A primary purpose of Project BOLD is the elimination of these inholdings.

B. Avoid Sensitive Federal Wildlife Management Areas. The State also seeks to avoid sensitive management areas or areas that can be more appropriately managed by Federal agencies. Included in this category would be critical habitat for endangered species and habitat for wildlife species of special interest. Selection of lands which need to be managed for essentially non-economic purposes may create future conflicts with trust responsibilities. While the State can manage tracts for a variety of uses (e.g., wildlife and grazing, recreation and grazing, etc.), it is difficult to reserve those lands for specific single uses that yield no identifiable return to the school trust. For example, the State would seek to exchange out of buffalo range lands near the Henry Mountains that have been identified in a coal unsuitability determination made by the Federal Government.

C. Avoid BLM Wilderness Study Areas. Similarly, the State seeks to avoid identified Bureau of Land Management wilderness study areas (WSA's) like the Deep Creek Mountains or portions of the San Rafael region. The ultimate management of these areas may not be determined for many years, and State management options are extremely limited in BLM WSA's. Because the State seeks to complete its land consolidation efforts expeditiously, Utah should avoid these potential conflict areas.

D. Avoid Other Federal Lands of National Environmental Significance. In attempting to avoid areas of particular National environmental significance, the State will also seek to avoid Federal lands that may not have an official protective designation, but are critical to protection of a designated area. Thus, for example, the State may seek to avoid selecting an area immediately adjacent to a national park for a use the State might envision under its school trust responsibilities that would adversely affect the management of that national park. The determination of conflicts with a particularly sensitive Federal area will be determined on a case-by-case basis, considering factors like proximity to designated area, compatibility of potential State uses with the Federal area, and the degree of impact those uses may impose on the Federal area.

E. Maintain Consistency with Local Plans. The State also seeks to maintain consistency with local plans and objectives. Therefore, where communities have identified lands for selection under the Recreation and Public Purposes Act or the Federal Land Policy and Management Act or seek to maintain lands for watershed management, the State would consult with local governments to avoid any conflict. Potential conflicts with other community objectives, like expansion proposals, would also be avoided.

F. Maintain Integrity Of Grazing Allotments. The State seeks to maintain the integrity of current grazing allotments. Whenever possible, the State proposes to select lands that would not disrupt grazing-right patterns.

G. Add to Existing State Blocks and Identify Units of Manageable Size. In order to further State-management efforts, the State will seek to add to existing State land blocks. In this manner, existing State landholdings can be filled in or expanded to create more manageable units. Similarly, the State will identify lands that are adequate in size to be manageable for a broad range of uses.

H. Avoid Lands Covered With Federal Mining Claims. One of the most difficult problems faced by the State in selecting lands for the proposed exchange involves the differences between Federal and State Governments in management of mineral resources. For certain minerals on Federal lands, commonly referred to as hardrocks, a prospector can "discover" a valuable mineral, stake the location of the discovery, record with the County and the BLM the location, maintain that discovery and location with nominal assessment work, and have a property right. No further payments to the Federal Government are required for maintenance or development of the mining claim. For other Federal minerals and on all State lands, leases are issued which result in bonus bids and annual rentals and a royalty is paid when production occurs. Since the discovery/location system provides no direct revenue to the Federal owner of the land and the property right may not be abridged, the State will seek to avoid lands that are covered with Federal mining claims.

I. Respond to Federal Land Management Agency Preferences. The State will also seek to include in its proposal lands identified by Federal agencies that would be better served in State management and will seek to avoid those areas identified by the Federal land managing agencies as better served by Federal land management. Thus, the State will not seek lands currently included in

Federal reservations or under review by the Bureau of Land Management for wilderness.

II. Previously Identified Exchanges and Selections

Over the years many areas have been identified for possible exchange or selection by the State of Utah and the Bureau of Land Management. These exchanges have trickled through the Bureau of Land Management exchange procedures over the years, but many exchange applications from the State have yet to be acted upon.

These previously identified exchanges and selections were reviewed; and where the objectives of the original proposal are consistent with the goal and procedures of Project BOLD, the proposal was included. For example, the State currently owns several sections near the Henry Mountains that have been precluded from coal development in order to protect a limited buffalo range. The State has proposed to exchange its sections in the buffalo range for equivalent coal lands in the Northern portion of the Henry Mountains field. This proposed exchange, which would avoid a sensitive management area for the Bureau of Land Management, is consistent with Project BOLD criteria and thus would be appropriate for inclusion.

III. Diversity of Resources and Uses

A. Seek Lands With Multiple Uses. In selecting lands for the State's proposal, an attempt will be made to provide a package of lands that represents all of the many land resources that can be appropriately and effectively managed by the State of Utah, including leasable minerals, grazing lands, wildlife habitat, etc. Lands will receive particular attention that are manageable for a mix of uses; for example, wildlife habitat, grazing, recreation, and subsurface uses. In seeking lands with a full range of multiple uses, consistent with State land-management mandated, the State hopes to acquire lands that will be broadly representative of the entire State.

B. Identify Lands of Comparable Value. In the first round of public meetings and comments, some participants expressed the concern that Utah would select lands far more valuable than its current landholdings. The State has lands representing a mix of values and uses. In its selection of lands, the State has identified lands that are comparably representative of Utah's values and uses.

C. Identify Lands Appropriate for State School Trust Land Management. Uses of selected lands are inextricably linked to State land-management policies. Under the Utah Enabling Act and the Utah Constitution, State lands must be managed to provide support for the school trust. Thus, lands where preservation may be the appropriate or best use might be inappropriate for State land management. However, the lands that Utah proposed for selection provide a broad range of use options, now and in the future.

D. Preserve Regional Diversity. The State selection package will attempt to preserve a State land interest in all regions of the State and prevent undue concentrations of State or Federal landholdings that might adversely impact local governments or communities. In this manner the State has identified for blocking a cross-section of the types of lands that are indicative of the diversity of Utah.

RESOURCE VALUATION

The objective of Project BOLD is to exchange approximately 2.5 million acres of land between the Federal Government and the State of Utah on an equitable value basis. The offered and selected lands provide the task of determining the values associated with five million acres. One of the reasons for Project BOLD is that Utah has had 22 selection and exchange applications on file with the BLM, some dating back to 1962 and most over a decade old. Many of these involved only a few thousand acres, but one of the primary reasons for delay or lack of action has been the detail and costliness of the mineral valuation process. FLPMA and other Federal processes and regulations require a level of detail in value information that is often not practical nor economical to generate.

Despite the problems associated with valuation, however, it was very clear to Utah officials that equity in the values associated with the exchanged lands must be demonstrated. Therefore, an essential element in making this exchange proposal a reality has been the development of a more flexible, but still credible basis for achieving fairness and equity in the exchange. The State of Utah and the Federal Government share in the ownership of a rich variety of resources in Utah. The values of these lands can be expressed quantitatively, in terms of the revenues that the public lands produce, or qualitatively, in terms of the diverse scenic, recreational, and wildlife resources they offer. Both quantitative and qualitative approahces were used in the valuation process.

The approach to mineral valuation involved the assembalge of staff of the Utah Geological and Mineral Survey and the Utah Division of State Lands and Forestry Mineral's Section. Consultation was also sought and received from BLM minerals specialists (formerly Minerals Management Service , U. S. Geological Survey). This group contains those experts most knowledgeable in Utah's mineral resources. The group was asked to propose an approach to valuing mineral properties for the purposes of a statewide land exchange.

This group, after consultation with the State Bureau of Land Management Office, produced the following recommendations:

1. That resource provinces should be identified. The provinces were collectively identified by the minerals interagency group and identified geographic areas where reasonable homogeneity of the various resources existed.

2. That the leasable minerals within each province would be zoned as being of high, medium, or low potential for eventual production. The rating would be a composite relative ranking which would include any known factor thought to influence its future development possibilities to include such things as quantity and quality of the resource, depth, distance to market, and all factors known to affect marketability. (It was later decided that the low ranking of each leasable mineral would be dropped and ignored in the process due to unlikely development potential and the complexities it presented.)

3. That each leasable commodity, if possible, must be exchanged on a resource-for-resource basis within the same province.

4. That the value of saleable and locatable (hardrock) minerals would be ignored due to low value, little available information and, that in an

acre-for-acre exchange, chances are slim that there would be any significant value differences and hence would not merit doing an extensive valuation.

After the provinces were identified and the leasable commodities were zoned, all State lands within that particular province were analyzed and the number of acres of high and medium resource were determined for each commodity. The blocks proposed for state acquisition were designed to contain only as many acres of high or medium value of each commodity as was contained on State land within the province. This consensus process was applied to the state, producing a resource-for-resource exchange within specified geographical provinces and was presumed equitable. For example, within the Kaiparowits province, which contains coal, there are the same number of acres of high-value coal in the selected lands as there are in the scattered state land base; and there is the same number of medium-value coal represented in the selection area versus the state base within the same province.

It is inevitable, however, that such a process would produce occasional inequities within provinces, even though every effort was made to avoid them. Where minor inequities did occur, attempts were first made to balance out the deficiency or surplus on a resource-for-resource exchange in another province (i.e., medium-value coal in one province for medium-value coal in another province); the last option was to exchange for an alternate resource.

SURFACE VALUATION PROCESS

There is no question that mineral values comprise the majority of the value associated with the exchanged lands and, hence, surface values constitute a minor portion of the value. Nevertheless, the need to define values of the surface resources is obviously necessary. As public lands, most of the Federal and state lands are in the rural areas of the state. The inordinate values associated with urban lands which may be valuable for commercial, industrial, or residential use are very minor and in most cases nonexistent. The exchange deals primarily with values that are associated with the "multiple uses" normally made of public lands. These values include grazing, range improvement, water availability, timber types, recreation, wildlife values, aesthetic values, archaeological values, and cultural and historical values. The approach to surface valuation involved describing and categorizing the existence and relative value of each of these resources on the offered and selected lands on an acreage basis as high, medium, and low. This was first done on the offered state lands. This accounting provided a resource mix, or inventory, which was then used to seek Federal lands with a comparable resource mix and values.

Grazing is the predominant surface use on BLM and state land. Grazing provides more revenue than any other single surface use and in terms of tangible values may be the simplest value to quantify.

Although surface values were not done strictly on a province basis, as were the minerals, attempts were made to maintain equity on a geographic basis. For instance, under the exchange proposal, the state maintains the same number of acres in the West Desert as it presently owns in that area; the state will retain approximately the same number of acres of mud flats West of Great Salt Lake as it presently owns. The expressed goal of the state to maintain geographic diversity in the exchange also insures that Utah will be maintaining properties similar to its present inventory. This further insures that neither the state nor the BLM will experience a significant gain or loss in value.

Finally, the value of aesthetic and other "intangible" resources has been done primarily by description. This means simply that like areas with similar features and attributes have been incorporated as part of the exchange process. Utah contains some of the most unique and spectacular scenery in the world. Congressional recognition of the value of these scenic resources has resulted in the establishment of more National Parks than any state except Alaska, National monuments, National recreation areas, primitive areas, and scenic areas. Millions of acres are currently under study for potential wilderness designation. State sections scattered among these protected areas of National scenic and recreational significance are of tremendous value to the public and to Utah citizens, but do not contribute to the school trust, the beneficiary of State land revenues. Methods of placing appropriate values on these scenic and recreational lands for purposes of an exchange should take into consideration that opportunity for other uses has been pre-empted. Recognition of the special values associated with the National scenic and recreational lands must be included as a major component of value that the state brings to the Project BOLD exchange.

In the past few decades, there have been numerous attempts to assign dollar figures to recreational or aesthetic resources, but no approach has been successful in avoiding substantial controversy. Quantification of values by description may be the only meaningful way to evaluate many of the wildlife, aesthetic, scenic, and recreational values located on lands which will be involved in the exchange. The absence of an overall dollar figure might be more revealing than the inclusion of an inaccurate or unreliable dollar figure.

REVENUE SPLITTING

In attempting an exchange as massive as that of Project BOLD, there is always some risk, on both sides, that there are valuable commodities not now known or not now valuable, but hold the potential for being valuable in the future. Admittedly, such situations could result in the receiving entities reaping a windfall in the future. Knowing that this possibility exists, Utah officials, in consulation with Department of Interior officials, developed a revenue-splitting proposal which is included in S. 2949. In its simplest form, the revenue-splitting concept provides that mineral revenues received from all lands involved in the exchange would be divided, with 50 percent going to the State of Utah and 50 percent being deposited in the U. S. Treasury. The application of this process insures that neither government entity will reap, nor suffer the loss of, a windfall. It further insures that in the event a valuable commodity is discovered that both entities will share in its value.

The development of this concept re-directed the identification of exchanged lands in a minor way, but resulted in a proposal whereby not only do we propose an equitable resource-for-resource land exchange, but we maintain the present revenue stream that both the Federal Government and the State receive from mineral activity on the principal commodities being developed on those lands.

While a pure 50-50 split of mineral revenues appears to be entirely equitable, an adjustment was necessary to cure an inequity that would have occured. We found that approximately 300,000 acres of State land that would have been transferred to the Federal Government would effectively be located in areas where they would earn no revenue, while the 300,000 acres the State would receive would be producing revenues. In light of this, the Bill provides that the lands identified to be involved in this problem would be exchanged with no provision for revenue-splitting by either the State or the Federal Government. The involved lands are presently State-owned lands within National Parks and Monuments, BLM Wilderness Study Areas, and Military and Indian Reservations.

The revenue-splitting concept when added to the previously described valuation process insures maintenance of interests in the exchanged lands by both the Federal and State Governments.

I thank you for allowing me to participate with you today, and I strongly urge you to take favorable action on this Bill.

Senator **Wallop**. While you are there and have the map and that microphone, how do you respond to the concerns that were raised by Commissioner Black in terms of loss of revenues through the public lands, not Federal Government lands but public lands to the State of Utah?

Mr. **Miles**. Well, I think he made a good number of points on that. One of them seems to be that the State, because we lease our minerals, and the Federal Government because they make their minerals available on mining claims and get no revenue, that there is an inequity there. You would be picking up the mining claims, we would not have a revenue.

There is some validity to that, and what we have done is reached a compromise situation whereby we would share mineral revenues with the Federal Government, the hard rock minerals, for a period of 10 years, and beyond that, there would be no sharing.

Also those lands that we would acquire that have mineral mining claims on them, the provision is in there that after 10 years if they are not converted to a State lease or if they are not patented, that we would select lands in lieu of those. We would hope to select lands that did not have mining claims encumbrances on them and get around that.

Senator **Wallop**. Thank you. Speaker Bangerter, clearly all the State of Utah has strong interest in the payment in lieu of taxes.

Is it your feeling that legislation that was passed in Utah pretty well holds those counties harmless that might otherwise have suffered a potential loss assuming, as I think we have to assume, that there is a continued exercise of that concept by Congress?

Mr. **Bangerter**. I think that is the intent. That is the intention that we had as a legislature in passing that. The counties did not come up with a net loss in those programs. We would have to work to protect that obviously as we move into this program.

Senator **Wallop**. Those lands would then become State lands. They wouldn't revert to anything but full income production, so Utah's position is that they would pay the payments in lieu of taxes to the same extent that the Government does, is that correct?

Mr. **Bangerter**. Whether it would be quid pro quo, I am not certain you can say that, but I think we have a uniform school fund which we use in the State of Utah which helps alleviate that, and we also have to analyze those positions as we move into the school formula from those lands.

Senator **Finlinson**. Mr. Chairman, I was the sponsor of that legislation, and so we worked very closely with the local governments, with the counties when we actually passed the legislation in 1982, and as a general rule, the State pays in lieu of taxes to the local governments on our land, but we did say if in effect we had to, the Federal lands were transferred out and the county then received a reduction in getting that because the acreage had changed, we would make sure and hold them harmless which would mean we may have to bring some additional dollars in that we would get out of the Federal share to make sure they were covered, so we are only looking at those variations if there was an actual difference created in the acreage, so we are on the books with a law to hold the counties harmless, and that was one of the key things that we did in order to maintain the support of local government.

We will have to struggle with that from time to time, but I think one of the new changes that went into the bill that is now before us where the Federal Government has made some concessions in the way they are going to handle the taxes helps in that area, so I think we have, I think we have come a long way since we started out with it and we passed the legislation in 1982, and then the draft that is now before you has even put some additional things that help very much in that particular area.

Senator WALLOP. Mr. Becker, as Deputy Director of the Office of Planning and Budget, clearly one of the things that has to have been weighing on your mind and one that the Governor brought up, as well as Senator Garn, Senator Hatch, Congressman Hansen and others, is trying to do something that creates a better benefit for the schoolchildren of the State.

Is it your opinion that if we were able to push this legislation through that the financial support of Utah schools would be stronger?

Mr. BECKER. Yes; I believe strongly that if this bill were passed, if the land consolidations took place, that there would be enhanced revenue returns to the school trusts.

To place that in some perspective, though, as Governor Matheson and others have mentioned, we receive about 2 percent of our school revenues from the school land revenues, so it is probably not going to dramatically alter that relationship, but with the blocking of the mineral resource properties and areas where we feel that the mineral development will eventually take place, I think that there will be some substantial opportunity to increase revenues to the school trust fund.

Senator WALLOP. Mr. Miles, with regard to a differing set of circumstances, for people who presently have grazing rights on BLM and forest lands, how will they be treated when they move to the State?

Will their present access be the same and their cost reasonable?

Mr. MILES. Each government entity, the State and the Federal Government, merely steps into the shoes of the other government in this exchange, and all rights and privileges that are attendant to those grazing leases will still be in force. There will be no change. They will have a different landlord. They will have the same lease.

Senator WALLOP. What about the differences in the cost-of-grazing access? I assume there are some between the State and the Federal Government now, and clearly if there are not, there will be in the future.

Mr. MILES. Presently we adopt the BLM rate so there is no problem really, and it is likely that in the future there might be some disparity between the Federal and State rates.

We had not intended to maintain that relationship. The State can charge its own rate and BLM its own rate beyond the terms of these leases.

Senator WALLOP. Thank you all very much. We appreciate your testimony here this morning.

We have panels 3 and 4, and since one of the parts in panel 4 is not here this morning, I am going to ask Jim Norton of the Wilderness Society to join panel 3, which consists of Ed Zajonc, Oregon Land Commissioner, from Salem, OR; Mr. Ralph Philip Shimer, Western Governors' Association; Paul Cleary from my State, Wyoming, and the natural resources analyst for the State planning coordinator's office; and Ron Michieli of the National Cattlemen's Association, speaking on behalf of the Utah Cattlemen's Association, so we will begin with Mr. Zajonc. I know I have mispronounced your name.

Mr. ZAJONC. Good morning. My name is Ed Zajonc. It is a good Polish name. The C is silent and it confuses a lot of people on several occasions.

STATEMENT OF ED ZAJONC, PAST PRESIDENT, WESTERN STATES LAND COMMISSIONERS ASSOCIATION

Mr. ZAJONC. I would like to take an opportunity to thank you, Mr. Chairman, and members of the committee, for this hearing, and it is probably somewhat surprising to see an Oregonian coming forth to assist the State of Utah, but let me assure you, as my comments are reviewed, that you will note that there is quite a great interest in the State of Oregon as to what is happening in Utah, and there are some similarities.

As I indicated, my name is Ed Zajonc, and I am the past president of the Western States Land Commissioners Association which the State of Wyoming has been a member of since its inception and has been served quite well by the late Oscar Swann whose loss we mourn.

This morning, there are two issues that we would like to specifically address. One is the impact on other States and the Western States Land Commissioners Association's role, and also the impact of Project BOLD specifically on the State of Oregon.

Let me share with you the Oregon story just briefly and why the Project BOLD is an advantage to our State. There is nothing greater to the Department of Interior, Bureau of Land Management, or the current administration than to see FLPMA work in any way possible.

Currently, the State of Oregon has embarked upon the most ambitious land exchange program in the continental United States outside of the Project BOLD. In the past history, there have been acreages as great as 14,000 to 25,000 acres exchanged. However, in 1984 the State of Oregon will exchange in excess of 400,000 acres, and we have done that through the FLPMA process.

Let me tell you we didn't do that very easily through the FLPMA process, and in fact, it took 13 years to complete. Now if you assume that it can be done, which we questioned, there were several legal decisions and interpretations and extrapolations that were needed for us to succeed; if you assume that the State of Utah can do the same thing and given the scale in Utah, I estimated it would take somewhere in the neighborhood of 125 years to complete the process.

I don't know about you, Mr. Chairman, I am certainly not going to be around to see the State of Utah consolidate its land if it has to go through the FLPMA process, but what I think would happen——

Senator WALLOP. I might be, but I'll be tired of watching.

Mr. ZAJONC. Yes, sir. I can imagine. I can assure that the processes that are being discussed today are forerunners to future amendments to FLPMA that will possibly accommodate the States in their attempt to consolidate land, and I would also impress upon you that the Western States Land Commissioners Association is seriously watching what is happening and what is going on in the dialog and discussions taking place because the issues that are being discussed are obviously proposals for future Federal legislation.

The issues concerning valuation, how you determine whether or not there is a value to those properties and who establishes those values, are critical issues in any land exchange proposal, and there is an unfortunate I guess misinterpretation by the administration on occasions as to whether or not the State can make an adequate value or assessment of value to their land as well as to ourselves.

As Oregon completes its process, we will have a very large block of some 250,000 acres in eastern Oregon. For the first time in the history of our State, we will be able to provide a sound land management policy. As a professional land manager, I assure you that the parochial interests that I have heard so far this morning, and I am sure you will hear others, will be satisfied on a State level just as equally as it has been satisfied on a Federal level in the past, and if a State has an opportunity to manage its land under its management policy and on a local level, I can assure you that it will have the same integrity as it has in the past on the Federal level, and it will certainly allow us an opportunity to expand and grow and provide a greater and more efficient operation on the State level.

I appreciate this opportunity and I am more than glad to answer any questions should you have some at a later time.

[The prepared statement of Mr. Zajonc follows:]

TESTIMONY OF ED ZAJONC

PAST-PRESIDENT

WESTERN STATES LAND COMMISSIONERS ASSOCIATION

My name is Ed Zajonc. I am Past-President of the Western States Land Commissioners Association and have been asked by the present President of the Association to represent the Association's views on Project BOLD at this hearing.

The Western States Land Commissioners Association comprises 21 of the western-most states, most of which have a common problem, that problem being State-owned lands mixed with Federally owned lands and the many problems associated with that ownership pattern. We have lived with the scattered ownership patterns for many decades. Many states have attempted to consolidate their holdings or to remove some of their holdings from Federal enclaves by traditional processes governing exchanges. In many decades of working on this problem, we have seen little in the way of results. Most states have experienced some success in small-scale exchanges, but particularly with the advent of FLPMA, we do not see the possibility of consummating large-scale exchanges within reasonable amounts of time.

The Land Commissioners Association has followed Utah's Project BOLD since its inception. The Association has unanimously passed resolutions on two separate occasions endorsing Utah's effort and supports the concepts contained in Project BOLD. We view it as an imaginative approach and applaud Governor Matheson and the people within the State of Utah who are responsible for its development.

All states may not want to eventually pursue blockings of their lands as is being attempted in Project BOLD. However, many states within the Association have experienced a desire to do so.

Mr. WALLOP. Thank you, Mr. Zajonc.
Mr. Shimer.

STATEMENT OF R. PHILIP SHIMER, WASHINGTON REPRESENTATIVE, WESTERN GOVERNORS' ASSOCIATION, WASHINGTON, DC

Mr. SHIMER. Thank you, Mr. Chairman. My name is Philip Shimer. I am the Washington representative of the Western Governors' Association, and I am here today to present testimony in support of 2949 on behalf of our member Governors.

The Western Governors' Association was formed this past February through the merger of the two predecessors—the Western Governors' Policy Office, better known as Westpo, and the Western Governors' Conference. The new organization includes the Governors of 16 Western States, two Pacific territories, and one Pacific island commonwealth. I won't list the members, but would inform you that the membership is listed on the statement.

The West is different, as you know, Mr. Chairman, from other regions of the country in many ways. One of the more pronounced differences is the percentage of land area in the West that is owned by the Federal Government. The Federal Government owns over 60 percent of the land area in the States that we deal with compared to less than 6 percent in the other regions of the country.

In some of the Western States, Federal dominance rises to nearly 90 percent of the land area. Federal presence creates special opportunities as well as unique problems for Western State Governments.

Utah's checkerboard land ownership pattern is a problem common to all of the States that we work with. State lands, received for the most part through Federal land grants at statehood, are usually scattered parcels, as you have heard, consisting of square mile sections surrounded by either Federal or private land. The land ownership maps that you have seen here this morning for Utah are very similar in most of the other Western States. The checkerboard pattern that is common on these maps has long resulted in conflicts in the Federal and State land management objectives, has limited revenue returns to the institutions that were originally intended to be helped through the land grants, and has forestalled proper management of the State lands both by State governments as well as by the Federal Government, as you also heard this morning.

Other Western States along with Utah have, because of the costs, delays, the overall complexity of the exchange process and procedures, experienced difficulty similar to Utah's in executing proposals to exchange scattered parcels. As Governor Matheson indicated, other Western Governors are extremely interested in seeing progress on the concept that S. 2949 outlines. Although the Governors have now recognized that substantive action on the Utah proposal will not occur this year, they are very pleased that the hearing record is being compiled. That will clear the way for further consideration of this important issue in the 99th Congress.

The Governors are, therefore, supportive of the concepts of exchange and consolidation, and are on record already supporting congressional enactment of the Utah proposal.

Attached to my statement is a Governors, 1983 resolution adopted in their annual meeting in Bismarck urging congressional action and also seeking administration support for the concept. I will not read the entire statement but would ask that it be submitted as part of the full record, and I would summarize that statement by paraphrasing the position itself as, quote, the Western Governors urge Congress to enact legislation which endorses an exchange of equal value between the State and Federal Government, protects the existing uses and rights to the maximum extent practicable, and permits the State to realize the benefits from its land grant.

I again appreciate the opportunity to appear on behalf of the Governors' Association.

[The prepared statement of Mr. Shimer follows:]

Statement of the
Western Governors' Association
on S. 2949
Before the Subcommittee on Public Lands and Reserved Water
Committee on Energy and Natural Resources
Senator Malcolm Wallop, Chairman

Mr. Chairman, I am R. Philip Shimer, Washington Representative for the Western Governors' Association (WGA). I appear before you today to present testimony in support of S. 2949 on behalf of the member governors of the WGA.

The WGA was formed in February 1984 through the merger of two predecessor western governors' organizations, the Western Governors' Policy Office (WESTPO), and the Western Governors' Conference. The new organization includes the governors of 16 western states, two Pacific territories and one Pacific commonwealth. The Board of Directors therefore includes the governors of Alaska, American Samoa, Arizona, California, Colorado, Guam, Hawaii, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, Northern Mariana Islands, Oregon, South Dakota, Utah, Washington, and Wyoming.

The West is different from the other regions of the country in many ways. One of the more pronounced differences is the percentage of land area in the West that is owned by the federal government. The federal government owns over 60 percent of the land area in the West compared to less than 6 percent in the other regions. In some of the western states federal ownership rises to nearly 90 percent of the land area. This federal presence creates special opportunities and unique problems for western state governments.

Utah's checkerboard land ownership pattern is a problem common to all the western public land states. State lands, received for the most part through federal land grants at statehood, are usually scattered parcels consisting of square-mile sections surounded by either federal or private lands. The land ownership maps for most other western states are no different than those presented to you this morning by Utah officials. The checkerboard pattern common in those maps has long resulted in conflicts in federal and state land management objectives, has limited revenue returns to the institutions which the original land grants were intended to benefit, and has forestalled proper management of the state lands. Although the severity of the problem differs from state to state, most states have at one time or another experienced frustration in managing these scattered state sections. This situation has also, as you have heard this morning, created administrative and functional problems for the federal agencies responsible for managing the adjacent federal lands. Other western states, along with Utah have, because of costs, delays, and the overall complexity of the exchange procedures, experienced difficulties in executing proposals to exchange scattered parcels for more consolidated units. As Governor Matheson has indicated, other western governors are extremely interested in seeing progress on the concept outlined in S. 2949. Although the western governors recognize that substantive action on the Utah proposal will not occur in the 98th Congress, they are pleased that a hearing record is being compiled clearing the way for further consideration of this important issue in the 99th Congress.

The WGA is therefore supportive of the concepts of exchange and consolidation contained in S. 2949 and is on record as supporting congressional enactment of the proposed Utah exchange legislation as a potential model for other western states. Attached to my statement is the governors' 1983 resolution urging congressional action and seeking administration support. I will not read the entire statement, but would ask on behalf of the governors that their unanimously adopted statement be made a part of the record. Their position can be summarized as follows:

> "The western governors urge Congress to enact legislation...which endorses an exchange of equal value between the state and federal government...protects the existing uses and rights to the maximum extent practicable...and permits the state...to realize the benefits from its land grant."

Thank you for the opportunity to present testimony on behalf of the WGA.

WESTPO RESOLUTION 83-001

August 20, 1983
Bismarck, North Dakota

Sponsor: Governor Scott Matheson

Subject: WESTPO state lands consolidation and exchange policy

A. Background

Since statehood, the western states have been disadvantaged in their ability to manage and receive the full benefits of their land grants. The checkerboard land ownership pattern resulting from the land grants and remaining in almost all of the western states has resulted in conflicts between federal and state land management objectives, limited revenue returns to the institutions which those land grants were intended to benefit, and forestalled proper management of the state lands. These land management problems have been exacerbated by the difficulty of achieving land consolidation through administrative exchange with the federal government because of the costs, delays, and overall complexity of those exchange procedures.

The Utah land grant is an example of this condition. Upon entering the Union in 1896, Utah, like other western states, was provided with specific square-mile sections among the federal lands. In Utah, four sections of each 36-square mile township were granted to the state for the support of the common schools and specific land grants were made to 11 other institutions. The school land grant totaled nearly six million acres and created a "checkerboard" pattern of state and federal ownership across most of Utah.

The Utah land grant was consistent with federal land policies of the 1800s. National policy dictated disposition of federal lands in order to facilitate development of the remote and arid West. The Homestead Act of 1864 and the Desert Land Entry Act of 1877 which provided lands to new settlers were the legislative basis for the disposal policy. When the Utah Enabling Act was passed in 1894, the state of Utah and the federal government expected that public lands eventually would benefit from the taxes created by "new" private lands as well as the state land grant.

Through the 20th century, federal land policies have been substantially revised — in 1976, the Federal Land Policy and Management Act (FLPMA) formally recognized a federal policy of land retention. But while the policies have changed, the basic land ownership pattern established in the 19th century remains with only minor modifications. The state now finds itself with small islands of land surrounded, and in most cases controlled, by the activities of the federal land managers. The revenues to the school trust have been limited, providing only three percent of the state school budget in 1981.

This current land ownership pattern frequently leads to conflicts between the state and federal government over the use of specific lands. Mineral development proposals on state sections have conflicted with surrounding federal land management objectives, grazing levels on federal lands have dictated the level of use on interspersed state sections, and state or federal policies for wildlife or preservation use have been hampered by the neighboring government's contrary objectives.

The logical solution to these conflicts is to accomplish site-specific exchanges which eliminate management conflicts: the state of Utah has attempted to address these problems through individual exchange proposals. Unfortunately, experience with the existing exchange procedures has been singularly unsuccessful — value appraisals are difficult, costly, and time-consuming and the procedural complexities of the process have rendered all but the smallest and simplest exchanges virtually impossible to complete. Traditional exchange determinations for mineral lands must be based on detailed core drillings to determine the mineral values of the lands in question. Unless significant minerals are present, the cost of determining the value of the lands involved in the exchange will exceed the value of the lands.

Utah's frustration with the existing federal and state land pattern and administrative exchange processes is shared by the other western states. Through a bold initiative involving congressional approval for an equitable land exchange and consolidation, Utah hopes to realize the full benefits of land ownership, as envisioned at statehood. Utah has pursued development of a proposal for two and one-half years that has included three rounds of public meetings (a total of 18 public meetings), as well as close coordination with federal land managing agencies, and countless meetings with local government officials, public land users, and the interested public. In addition the state legislature has overwhelmingly endorsed the concept of pursuing this land exchange initiative in Congress, subject to guidelines that will protect existing rights and uses on the public lands and provide for an equal value exchange. Congressional legislation is expected to be introduced this fall.

B. Governors' Policy Statement

The checkerboard ownership that is common in western states limits our ability to manage and reap the full benefits from state land grants because of the checkerboard ownership pattern, leaving states with isolated scattered landholdings, often surrounded by federal lands. This land configuration presents management problems for both the states and the federal government which cannot be effectively remedied through existing administrative exchange policies.

Recognizing the need for congressional assistance to address this problem, the western governors urge Congress to enact legislation pursuant to a proposal developed over two and one-half years by the state of Utah, as a potential model for other western states which:

1. Endorses an exchange of equal value between the state of Utah and the federal government, accomplishing the consolidation of state and federal lands into more manageable units.

2. Protects the existing uses and rights to the maximum extent practicable, thereby preserving the existing uses on the public lands.

3. Permits the state of Utah to realize the full benefits from its land grant through such consolidation, and removes the state lands from lands managed for inconsistent objectives on federal reservations and the public lands.

C. Management Directive

1. Present this statement to the congressional members from the WESTPO states and to other appropriate congressional leaders. Reflect this position in congressional action as legislation is considered by Congress.

2. Present this statement to the President, the Secretary of the Interior, and other members of the Administration, requesting that this congressional initiative receive their continued support.

DISPOSITION:

Approved: unanimous

Disapproved:

Date of Action: August 20, 1983

Senator Wallop. Thank you, Mr. Shimer.
Paul Cleary.

STATEMENT OF PAUL CLEARY, WYOMING GOVERNOR'S OFFICE, ON BEHALF OF GOVERNOR HERSHLER

Mr. Cleary. Thank you, Mr. Chairman. Mr. Chairman, I am Paul Cleary with the Wyoming Governor's office. I am presenting testimony on behalf of Gov. Ed Herschler who would be here in person were it not for a recurring back ailment.

The Governor appreciates this opportunity to testify in strong support of the S. 2949, the Utah State and Federal Land Management Improvement Act of 1984.

Governor Herschler would like the subcommittee to focus on the key phrase of the title of this act, "land management improvement." The management of both State and Federal lands in Utah, the improved management of both State and Federal lands in Utah is a major goal of this act. Improved management of State and Federal land is a goal that is shared by Wyoming and other Western public land States as well.

One glance at the land ownership map for Utah gives convincing evidence of the need to rearrange ownership patterns to better block Utah's State and Federal lands in a managable unit. The benefits of such a rearrangement will accrue to land users and taxpayers alike. Improved management efficiency, reduced State/Federal conflicts, greater opportunity for investments in resource enhancement and productivity measures, more orderly and rational development patterns, increased accountability, and a variety of other public interest benefits will be generated by this action.

Western States like Utah and Wyoming have made substantial progress over the last several decades in improving their land and resource management capabilities. Our resource planning and management roles which were originally focused primarily on water, minerals and wildlife have been expanded to encompass environmental, recreation, range, historical, and archeological concerns. Congress has explicitly recognized these State capabilities in legislation such as the Clean Water and Clean Air Act, Surface Mining Act, the National Historic Preservation Act, and the Federal Oil and Gas Royalty Management Act.

Western States such as Utah and Wyoming have also displayed a strong sensitivity to land and resource conservation needs. We recognize that a substantial portion of our heritage, our livelihoods, and our high quality of life is directly tied to sound management of our State and Federal lands. We have been at the forefront of creative resource stewardship efforts as well as the forefront of reform in mineral royalty collection and accounting systems.

Public environment and official accountability at the State government level is assured through the State elective legislative processes. In sum, Western States have the inherent desire, the tools, and the public pressure to do their State land management job right.

What we don't have in many cases is a conducive land and mineral ownership pattern which is what S. 2949 is all about.

Beyond these needs to improve land management capabilities, this bill also addresses what we view as a substantial burden and injustice that the State of Utah has absorbed due to the incorporation of State lands in various Federal reservations and withdrawals. The creation of national parks, monuments and other Federal withdrawals have severely restrained Utah's ability to manage their lands. Moreover, it has adversely affected their ability to generate revenue for their school land trust fund in direct contravention of the enabling act for the State of Utah, the Utah constitution, and the U.S. Supreme Court decision in *Lassen v. Arizona*.

Governor Herschler would like to point out to the subcommittee that this situation is not unique to Utah nor are the frustrations of the existing Federal administrative land exchange procedures being experienced only by Utah. Wyoming has for over a decade been negotiating with the National Park Service regarding the purchase or exchange of 1,366 acres of State-owned inholdings in Grand Teton National Park. These inholdings like those in the national parks in Utah have essentially been committed to a national park purpose despite their prior dedication to the respective State school land trusts.

While we don't object to the appropriate withdrawal of Federal lands for national purposes, we strongly object to the withdrawal of State lands for national purposes.

In sum, Mr. Chairman, the State of Utah has devoted substantial time and manpower to the preparation of this land conveyance legislation. They have solicited input from a broad spectrum of public land interest groups. They have attempted to fully address the concerns of current land users and the public at large. They have recognized and attempted to preserve the various rights and interests potentially affected by the land conveyance. They have developed a reasonable and creative approach to the mineral valuation issue.

Utah's efforts deserve to be rewarded by speedy and favorable congressional action on the bill before you. Governor Herschler offers his full support to Utah's Project BOLD proposal and respectfully urges this subcommittee to do the same.

Thank you, sir.

[The prepared statement of Mr. Cleary follows:]

PREPARED STATEMENT OF PAUL CLEARY, WYOMING GOVERNOR'S OFFICE, ON BEHALF OF GOVERNOR HERSHLER

MR. CHAIRMAN AND MEMBERS OF THE SENATE PUBLIC LANDS AND RESERVED WATER SUBCOMMITTEE, I AM PAUL CLEARY WITH THE WYOMING GOVERNOR'S OFFICE. I AM PRESENTING TESTIMONY ON BEHALF OF GOVERNOR ED HERSCHLER WHO WOULD BE HERE IN PERSON WERE IT NOT FOR A RECURRING BACK AILMENT. GOVERNOR HERSCHLER APPRECIATES THIS OPPORTUNITY TO TESTIFY IN STRONG SUPPORT OF S.2949, THE "UTAH STATE AND FEDERAL LAND MANAGEMENT IMPROVEMENT ACT OF 1984". THE GOVERNOR URGES THIS SUBCOMMITTEE TO GIVE TIMELY AND FAVORABLE CONSIDERATION TO THIS THOUGHTFUL AND IMPORTANT LAND CONVEYANCE INITIATIVE.

GOVERNOR HERSCHLER WOULD LIKE THE SUBCOMMITTEE TO FOCUS ON THE KEY PHRASE OF THE TITLE OF THIS ACT, "LAND MANAGEMENT IMPROVEMENT". IMPROVING THE MANAGEMENT OF BOTH STATE AND FEDERAL LANDS IN THE STATE OF UTAH IS THE MAJOR GOAL OF THIS ACT. IMPROVED MANAGEMENT OF STATE AND FEDERAL LANDS IS A GOAL THAT IS SHARED BY WYOMING AND OTHER WESTERN PUBLIC LAND STATES AS WELL. ONE GLANCE AT THE LAND OWNERSHIP MAP FOR UTAH GIVES CONVINCING EVIDENCE OF THE NEED TO REARRANGE OWNERSHIP PATTERNS TO BETTER BLOCK UTAH'S STATE AND FEDERAL LANDS INTO MANAGEABLE UNITS. THE BENEFITS OF SUCH A REARRANGEMENT WILL ACCRUE TO LAND USERS AND TAXPAYERS ALIKE. IMPROVED MANAGEMENT EFFICIENCY, REDUCED STATE/FEDERAL CONFLICTS, GREATER OPPORTUNITY FOR INVESTMENTS IN RESOURCE ENHANCEMENT AND PRODUCTIVITY MEASURES, MORE ORDERLY AND RATIONAL DEVELOPMENT PATTERNS, INCREASED ACCOUNTABILITY AND A VARIETY OF OTHER PUBLIC INTEREST BENEFITS WILL BE GENERATED BY THIS ACTION.

WESTERN STATES LIKE UTAH AND WYOMING HAVE MADE SUBSTANTIAL PROGRESS OVER THE LAST SEVERAL DECADES IN IMPROVING THEIR LAND AND RESOURCE MANAGEMENT CAPABILITIES. WE HAVE GREATLY EXPANDED OUR STAFFING WITH DEDICATED PROFESSIONALS IN A VARIETY OF NATURAL RESOURCE DISCIPLINES. OUR NATURAL RESOURCE PLANNING PUBLIC INVOLVEMENT, REVENUE ACCOUNTING AND ON-THE-GROUND MANAGEMENT CAPABILITIES HAVE ALL BEEN SIGNIFICANTLY ENHANCED. OUR RESOURCE PLANNING AND MANAGEMENT ROLES, WHICH WERE ORIGINALLY FOCUSED PRIMARILY ON WATER, MINERALS AND WILDLIFE, HAVE BEEN EXPANDED TO ENCOMPASS ENVIRONMENTAL, RECREATION, RANGE, HISTORICAL AND ARCHEOLOGICAL CONCERNS. CONGRESS HAS EXPLICITLY RECOGNIZED THESE STATE CAPABILITIES IN LEGISLATION SUCH AS THE CLEAN WATER AND CLEAN AIR ACTS, THE SURFACE MINING ACT, THE NATIONAL HISTORIC PRESERVATION ACT, AND THE FEDERAL OIL AND GAS ROYALTY MANAGEMENT ACT.

WESTERN STATES, SUCH AS UTAH AND WYOMING, HAVE ALSO DISPLAYED A STRONG SENSITIVITY TO LAND AND

RESOURCE CONSERVATION NEEDS. WE RECOGNIZE THAT A SUBSTANTIAL PORTION OF OUR HERITAGE, OUR LIVELIHOODS, AND OUR HIGH QUALITY OF LIFE IS DIRECTLY TIED TO SOUND MANAGEMENT OF OUR STATE AND FEDERAL LANDS. WESTERN STATE GOVERNMENTS HAVE BEEN AT THE FOREFRONT OF CREATIVE RESOURCE STEWARDSHIP AND COOPERATIVE MANAGEMENT EFFORTS. WE HAVE BEEN LEADERS IN THE REFORM OF MINERAL ROYALTY COLLECTION AND ACCOUNTING SYSTEMS. WE HAVE A LONG-TERM VIEWPOINT BECAUSE OF OUR CLOSENESS TO THE LAND AND OUR DESIRE TO PROVIDE FOR FUTURE STATE CITIZENS. PUBLIC INVOLVEMENT AND OFFICIAL ACCOUNTABILITY IS ASSURED AND ONGOING THROUGH STATE ELECTIVE AND LEGISLATIVE PROCESSES. IN SUM, WESTERN STATES HAVE THE INHERENT DESIRE, THE TOOLS, AND THE PUBLIC PRESSURE TO DO THEIR STATE LAND MANAGEMENT JOB RIGHT. WHAT WE DON'T HAVE, IN MANY CASES, IS A CONDUCIVE LAND AND MINERAL OWNERSHIP PATTERN, WHICH IS WHAT S.2949 IS ALL ABOUT.

BEYOND THE NEED TO IMPROVE STATE AND FEDERAL LAND MANAGEMENT CAPABILITIES IN UTAH, THE ACT BEFORE YOU TODAY ALSO ADDRESSES THE SUBSTANTIAL BURDEN AND INJUSTICE THAT THE STATE OF UTAH HAS ABSORBED DUE TO THE INCORPORATION OF STATE LANDS IN VARIOUS FEDERAL RESERVATIONS AND WITHDRAWALS. THE CREATION OF NATIONAL

PARKS, NATIONAL MONUMENTS, NATIONAL RECREATION AREAS, INDIAN AND MILITARY RESERVATIONS, AND WILDERNESS STUDY AREAS WITH STATE LAND INHOLDINGS HAS SEVERELY RESTRAINED UTAH'S ABILITY TO MANAGE THEIR LANDS. MOREOVER, IT HAS ADVERSELY AFFECTED THEIR ABILITY TO GENERATE REVENUE FOR THEIR SCHOOL LAND TRUST FUND IN DIRECT CONTRAVENTION OF THE ENABLING ACT FOR THE STATE OF UTAH, THE UTAH CONSTITUTION, AND THE U.S. SUPREME COURT DECISION IN LASSEN V. ARIZONA.

GOVERNOR HERSCHLER WOULD LIKE TO POINT OUT TO THE SUBCOMMITTEE THAT THIS SITUATION IS NOT UNIQUE TO UTAH. NOR ARE THE FRUSTRATIONS OF THE EXISTING FEDERAL ADMINISTRATIVE LAND EXCHANGE PROCEDURES BEING EXPERIENCED ONLY BY UTAH. WYOMING HAS, FOR OVER A DECADE, BEEN NEGOTIATING WITH THE NATIONAL PARK SERVICE REGARDING THE PURCHASE OR EXCHANGE OF 1,366 ACRES OF STATE-OWNED INHOLDINGS IN GRAND TETON NATIONAL PARK. THESE STATE INHOLDINGS, LIKE THOSE CONTAINED IN THE NATIONAL PARKS, MONUMENTS AND OTHER FEDERAL WITHDRAWALS IN UTAH, HAVE ESSENTIALLY BEEN COMMITTED TO A NATIONAL PURPOSE DESPITE THEIR PRIOR DEDICATION TO THE RESPECTIVE STATE'S SCHOOL LAND TRUSTS. WHILE WE DON'T OBJECT TO THE APPROPRIATE WITHDRAWAL OF FEDERAL LANDS FOR NATIONAL PURPOSES, WE STRONGLY OBJECT TO THE WITHDRAWAL OF STATE LANDS FOR NATIONAL PURPOSES. IN WYOMING, WE HAVE NOTIFIED THE BUREAU OF LAND MANAGEMENT

THAT ANY STATE SURFACE OR MINERAL INTERESTS WITHIN THE BOUNDARIES OF WILDERNESS STUDY AREAS MUST BE EXCHANGED OUT IF THE AREAS ARE RECOMMENDED FOR WILDERNESS DESIGNATION.

GOVERNOR HERSCHLER ALSO SHARES UTAH'S CONCERN OVER THE NEED FOR CONTINUED ACTION ON STATE INDEMNITY SELECTIONS, LANDS WHICH SHOULD HAVE BEEN PART OF THE ORIGINAL STATEHOOD GRANT BUT WERE UNAVAILABLE DUE TO PATENTING, HOMESTEADING OR EARLIER FEDERAL RESERVATIONS. WE NOTE THAT IN 1982 UTAH HAS THE RIGHT TO APPROXIMATELY 223,000 ACRES OF INDEMNITY SELECTIONS. IN WYOMING, WE BELIEVE WE HAVE A SIMILAR RIGHT TO APPROXIMATELY 2,000 ACRES. THROUGHOUT THE WEST, THESE IN-LIEU LANDS HAVE BEEN THE SUBJECT OF TIME CONSUMING LITIGATION. WE UNDERSTAND THAT UTAH HAS MADE SUBSTANTIAL PROGRESS SINCE 1982 IN COMPLETING THEIR IN-LIEU SELECTIONS AND HOPE THAT THE CONGRESS AND PERTINENT FEDERAL AGENCIES WILL CONTINUE TO COOPERATE FULLY WITH THE WESTERN STATES ON THIS MATTER.

THE STATE OF UTAH HAS DEVOTED SUBSTANTIAL TIME AND MANPOWER TO THE PREPARATION OF THIS LAND CONVEYANCE LEGISLATION. THEY HAVE SOLICITED INPUT FROM A BROAD SPECTRUM OF PUBLIC LAND INTEREST GROUPS. THEY HAVE ATTEMPTED TO FULLY ADDRESS THE CONCERNS OF CURRENT LAND USERS AND THE PUBLIC AT LARGE. THEY HAVE RECOGNIZED AND ATTEMPTED TO PRESERVE THE VARIOUS RIGHTS

AND INTERESTS POTENTIALLY AFFECTED BY THE LAND CONVEYANCE. THEY HAVE DEVELOPED A REASONABLE AND CREATIVE APPROACH TO THE MINERAL VALUATION ISSUE. UTAH'S EFFORTS DESERVE TO BE REWARDED BY SPEEDY AND FAVORABLE CONGRESSIONAL ACTION ON "THE UTAH STATE AND FEDERAL LAND MANAGEMENT IMPROVEMENT ACT OF 1984". GOVERNOR HERSCHLER OFFERS HIS FULL SUPPORT TO UTAH'S PROJECT BOLD PROPOSAL AND RESPECTIVELY URGES THIS SUBCOMMITTEE TO DO THE SAME. THANK YOU.

Senator WALLOP. Thank you, Paul.
Ron Michieli.

STATEMENT OF RON MICHIELI, VICE PRESIDENT, NATURAL RESOURCES, NATIONAL CATTLEMEN'S ASSOCIATION ON BEHALF OF THE UTAH CATTLEMEN'S ASSOCIATION, SALT LAKE CITY, UT

Mr. MICHIELI. Thank you, Mr. Chairman. I am here today representing the views of the Utah Cattlemen's Association as directed by their president, Roger Peart.

As you know, the cattlemen have been involved since the beginning of Project BOLD. From the beginning, the major concern of the ranchers has been to guarantee to protect the historical multiple uses of these lands along with the guarantees that the current grazing status quo be maintained.

In 1983 the Utah Legislative General Session, house bill 327, established the following language which is currently found in U.C.A. 65-1-44:

> Upon selecting, exchanging or otherwise acquiring lands of the United States, the Board shall honor all leases, permits, contracts, and terms and conditions of user agreements on United States lands. Improvements of the permittee or lessee to the land shall be also honored by the State in the acquisition of Federal lands, including permitted stocking rates, grazing fee levels, access rights and all existing activities that currently or historically have dictated an understanding of usage between the land user and the Federal Government.

With this statute established as the Utah law, I hope that this committee recognizes the importance that the State of Utah has placed on maintaining current rights as established by the history of grazing on public lands.

The language that is currently found in S. 2949 gives a clear direction to the protection of the status quo beginning with the definition under section 3(g), "Rights," referring to valid existing rights and privileges granted to a person under applicable law, and recognizing agreements appurtenant thereto.

Referring to that particular section, the Utah Cattlemen would like to recommend or suggest the following amendment for a clearer understanding of subsection 6(d) that is consistent with not only statutory language already established in Utah, but also consistent with language found throughout this act, and it would read:

> All renewals or extensions of rights by the acquiring entity shall be renewed or extended by the issuants of a right maintaining any written user agreements appurtenant thereto which existed prior to the exchange in accordance with the laws and regulations of the acquiring entity.

Finally, the Utah Cattlemen are uncomfortable about section 7(d) that deals with base property requirements when a State section has been utilized as base property for a Federal grazing permit. When considering the rare few instances which this section would impact, the ranchers involved in this particular situation would like to see it grandfathered in so that they would have equal rights with other ranchers whose status quo have been protected and not be discriminated against simply because their base property was a State section which has not been traded.

To achieve this end, the deletion of the following sentence found in section 7(d) is recommended:

A grazing permit or lease subject to the provisions of this section shall not be assigned, transferred, or conveyed, except by descent, unless new base property is acquired for the permit or lease.

In conclusion, we feel it is imperative this committee express its strong desire that the Utah State and Federal Land Management Improvement Act of 1984 is intended to improve land management in Utah while maintaining and guaranteeing historical multiple uses of these lands.

With that, we thank you for the opportunity to be here today, and would furnish further information if so requested by the chairman.

[The prepared statement of Mr. Michieli follows:]

Utah Cattlemen's Association
Publishers of The Utah Cattleman

One-fifty South Sixth East • Salt Lake City, Utah 84102 • 355-5748
Suite 108

UTAH CATTLEMEN'S CONCERNS WITH THE UTAH STATE AND
FEDERAL LAND MANAGEMENT IMPROVEMENT ACT OF 1984
"PROJECT BOLD"
Written Testimony Prepared For Delivery Before The
Senate Committee On Energy And Natural Resources
Subcommittee on Public Lands And Reserved Water
Conducted By:
The Honorable Malcolm Wallop
Washington, D. C. - October 2, 1984

Mr. Chairman, I am Ron Michieli, Vice President of Natural Resources and Public Lands with the National Cattlemen's Association, representing today the views of the Utah Cattlemen's Association as directed by their president, Roger Peart. The cattlemen have been involved from the beginning with the concept known as Project Bold with the blocking of the scattered state sections as a massive land trade with the BLM. From the beginning, the major concern of the ranchers has been the guarantee to protect the historical multiple uses of these lands with guarantees that the current grazing status quo be maintained. It has further been the hopes of the cattlemen that through this process the state sections that are currently located in U.S. military reservations, national parks, or other restricted federal areas be withdrawn and traded so the state might have better access to their duly appointed natural resources.

In the 1983 Utah Legislative General Session, House Bill 327 established the following language which is currently found in U.C.A. 65-1-44, . . . "upon selecting, exchanging or otherwise acquiring lands of the United States, the board shall honor all leases, permits, contracts, and terms and conditions of user agreements on United States lands. Improvements of the permittee or leasee to the land shall be also honored by the state in the acquisition of federal lands including permitted stocking rates, grazing fee levels, access rights and all existing activities that currently or historically have dictated an understanding of usage between the land user and the federal government." With this statute established as Utah law I hope that this committee recognizes the importance that the state of Utah has placed on maintaining the current rights as established by history of grazing on public lands.

It is our hope that Congress will establish the same type of language which recognizes all existing activities that currently or historically have dictated an understanding of usage between the land user and the land manager.

The language that is currently found in S. 2949 gives a clear direction to the protection of the status quo beginning with the definition Section 3 (g) "Rights" referring to valid existing rights and privileges granted to a person under applicable law and recognizing agreements appurtenant thereto.

The protection of rights which are found in section 6 of this act clearly establishes the maintenance of the status quo when the trade is initially completed but leaves a question as to the renewal or extension on the part of the federal government. Referring to section 6 (d), we would like to suggest the following amendment for a clearer understanding that is consistent with not only statutorial language already established in Utah but also consistent with language found throughout this act:

> 6 (d) - All renewals or extensions of rights by the acquiring entity shall be renewed or extended by the issuants of a right maintaining any written user agreements appurtenant thereto which existed prior to the exchange in accordance with the laws and regulations of the acquiring entity.

This amendment will simply add clarification to section 6 (d) as it maintains the same intent for the renewal or extension as it does for the initial assumption of all rights and duties. Without this amendment there could be interpretation by other administrations that the maintenance of any written user agreements prior to the exchange may or may not to be included with the extension or renewals. It is our firm understanding that this is the intent and cannot support federal legislation that indicates otherwise.

I cannot emphasize enough the importance of this language and sincerely hope that this committee will accept this language recommendation for clarification and intent sake.

Finally, we are uncomfortable with Section 7 (d) that deals with base property requirements when a state section has been utilized as base property for a federal grazing permit. Although there is a certain acceptance for the existing rancher and his descendants to use this base property, this act forbids the rancher from conveying or transferring this state base property. With this language a rancher loses value in the event that he does not have descendants to transfer his base property and federal permit to and in his retirement could not sell his right to his federal permit based upon this state base property section. When considering the rare few that this section might impact it would seem fair to grandfather those few ranchers involved with this particular situation so they might be equal with other ranchers whose status quo have been protected in this act and not discriminated against simply because their base property was a state section which has not been traded.

To achieve this end, the deletion of the following sentence found in Section 7 (d) is recommended:

> [A grazing permit or lease subject to the provisions of this section shall not be assigned, transferred, or conveyed, except by descent, unless new base property is acquired for the permit or lease.]

In conclusion we feel it imperative that this committee expresses its strong desire that the "Utah State and Federal Land Management Improvement Act of 1984" is intended to improve land management in Utah while maintaining and guaranteeing the historical multiple uses of these lands. Recognizing the precedents that this act will establish, we have appreciated the opportunity to be active in identifying problems and suggesting language which is currently found in this act. We appreciate the opportunity for being allowed to testify with the sincere hopes that this honored body will accept our suggested amendments to make this a better piece of legislation.

Senator WALLOP. Thank you, Mr. Michieli.

Mr. Norton.

STATEMENT OF JAMES W. NORTON, ASSISTANT DIRECTOR, BLM PROGRAMS, THE WILDERNESS SOCIETY

Mr. NORTON. Thank you, Mr. Chairman. My name is James Norton, assistant director of the Wilderness Society's program for supporting sound management of the Bureau of Land Management lands.

On behalf of this society's 119,000 members, I am pleased to present this testimony on S. 2471 and S. 2949, the Utah State and Federal Land Management Improvement Act of 1984, also known as Project BOLD.

The Wilderness Society is dedicated to the sound management of all federally owned land, and we consider the BLM public lands to be a vital part of our Nation's natural resource heritage.

The Wilderness Society supports the general concept of blocking up Federal and State lands where land ownership patterns are greatly intermingled. State-owned blocks in national parks and BLM wilderness study areas simply don't make sense for either the State or the Federal Government, but it is critically important that any proposed solution to the problem not create more management headaches than it solves.

We are not convinced that a legislative solution to the intermingled land ownership problem is necessary or advisable. The Federal Land Policy and Management Act of 1976 established a procedure for the exchange of Federal and non-Federal land.

That procedure was carefully crafted to ensure that land exchanges are in the public interest and that the Federal Government does not lose important public values.

Although the FLPMA exchange procedure is complex and time consuming, it can work where the Federal Government and other interested parties do cooperate.

The Wilderness Society believes that the FLPMA land use planning and exchange process should be bypassed only in special circumstances and when legislation to do so is considered as in this case, we believe it must be judged by the same high standards established by Congress in FLPMA.

Accordingly, we believe it appropriate to evaluate this legislation against the following criteria—is the exchange consistent with the equal value exchange principle? Does the exchange result in better protection of national values on public lands? Are the public lands with important natural, scientific, cultural, and ecological values retained in Federal ownership? Does the exchange establish bad precedent for management of Federal public lands?

In our opinion, S. 2949 fails to meet this set of standards, and the Wilderness Society must, therefore, oppose the legislation as currently drafted. In the interest of time, Mr. Chairman, I would like to briefly outline some of our specific concerns with the legislation.

I would like to point out, first of all, however, that these concerns have been raised in more detail on the hearing record during the Project BOLD process by numerous local and national conservation organizations.

I see I am running short of time, so I will be brief on these concerns. We are concerned about how the State may manage lands that have outstanding natural values that it will receive from the Federal Government.

We are concerned that the State has selected lands within BLM wilderness study areas on the Kaiparowitz Plateau.

We are concerned that the State has selected lands adjacent to national parks that may be incompatibly developed.

And we are concerned that the new Federal lands, a total of about 2½ million acres, would be open to the 1872 mining law, and instead we feel that these lands should be placed under our Federal mineral leasing system.

That concludes my oral statement, Mr. Chairman. I would like to ask that my written statement be included in the record, and I would be happy to answer any questions.

[The prepared statement of Mr. Norton follows:]

THE WILDERNESS SOCIETY

FOUNDED IN 1935

Project BOLD Draft Testimony

STATEMENT OF JAMES W. NORTON, ASSISTANT DIRECTOR OF BLM PROGRAMS FOR THE WILDERNESS SOCIETY BEFORE THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER REGARDING S-2471 AND S-2949, THE UTAH STATE AND FEDERAL LAND MANAGEMENT IMPROVEMENT ACT OF 1984.

October 2, 1984

Mr. Chairman, I am James W. Norton, Assistant Director of The Wilderness Society's program for supporting sound management of the BLM lands. On behalf of The Wilderness Society's 119,000 members I am pleased to present this testimony on S-2471 and S-2949, the Utah State and Federal Land Management Improvement Act of 1984, also known as Project BOLD. The Wilderness Society is dedicated to the sound management of all federally owned lands, and we consider the BLM public lands to be a vital part of our nations natural resource heritage.

Project BOLD is a vast and far-reaching piece of legislation. If enacted into law, approximately 5 million acres, an area roughly the size of Massachusetts, would be involved in a land exchange between the federal government and the state of Utah. The lands involved in the exchange are subject to many existing uses - mining, grazing, recreation, and others that may be affected by a transfer of ownership. Many of the lands are located in National Parks, Bureau of Land Management Wilderness Study areas or have important and sensitive environmental values that must be carefully protected. Furthermore, Project

1901 PENNSYLVANIA AVENUE, N.W., WASHINGTON, D.C. 20006
(202) 828-6600

BOLD is being viewed as a prototype for similar land exchanges in other western states. For these reasons, The Wilderness Society is a very concerned about this legislative proposal.

Governor Mattheson and his staff deserve commendation for the open process by which Project BOLD was developed. The Wilderness Society and, certainly, many other organizations, appreciate the opportunities for public input that were made available.

The Wilderness Society supports the general concept of blocking up federal and state lands where land ownership is greatly intermingled. For example, State owned land blocks in National Parks and BLM Wilderness Study Areas simply do not make sense for either the state or federal government. But is is critically important that any proposed solution to the problem not create more management headaches than it solves.

We are not convinced that a legislative solution to the intermingled land ownership problem is necessary or advisable. During the past two years, the BLM and state of Utah successfully achieved the transfer into state ownership of 118,260 acres of "indemnity selections" which were granted to Utah upon statehood, but were unavailable, for one reason or another, for earlier transfer. My understanding is that the remaining 60,000 acres of "indemnity selections" which are due to the state will be transferred before the end of the year. This successful transfer of what will ultimately total the equivalent of almost 180,000 acres demonstrates that state and federal governments can work successfully to resolve necessary land adjustments.

The Federal Land Policy and Management Act (FLPMA) of 1976 established a procedure for the exchange of federal and non-federal lands. The exchange procedure outlined in Section 206 of the Act, requires that: 1) the public interest will be well served 2) the exchange will provide greater benefits to the public than if the Federal lands were retained, and 3) all exchanges must be for equal value. These criteria were carefully crafted to ensure that land exchanges are in the public interest and that the federal government does not lose important public values.

Although the FLPMA exchange procedure is complex and time-consuming, it can work where the federal government and other parties cooperate. An example is a recently consumated exchange of land between the BLM and the state of Arizona. Approximately 130,000 acres of mineral estate were involved in the exchange. The consolidation helped the Arizona State Land Office to better manage its lands for the state school fund and helped the BLM to consolidate ownership of important wildlife habitat in a number of Wilderness Study Areas. The BLM is currently working on another land exchange with the state of Arizona to include 260,000 acres. These exchanges demonstrate that the exchange provision of Section 206 of FLPMA can work to the benefit of both federal and state governments.

The Wilderness Society believes the FLPMA land use planning and exchange process should be by-passed only in special circumstances. And when legislation to do so is considered as in this case, we believe it must be judged by the same high standards established by the Congress in the FLPMA of 1976.

Accordingly, we believe it is appropriate to evaluate this legislation against the following criteria:

1) is the exchange consistent with the equal value exchange principle? (i.e., do the Nation's citizens get a fair shake?)
2) does the exchange result in better protection of natural values on the public lands?

3) are public lands with important natural, scientific, cultural and ecological values retained in Federal ownership?

4) does the exchange avoid establishing bad precedents for management of the Federal public lands.

5) does the exchange create better land patterns necessary for sound multiple use management.

In our opinion, S.2949 fails to meet this set of standards and The Wilderness Society must therefore oppose the legislation as currently drafted.

The concerns as outlined here refer to S-2949 because it is my understanding that it supercedes the earlier draft of the legislation, S-2471, and includes recent modifications based on negotiation between the state of Utah and the Department of Interior.

Our specific concerns are as follows:

1) State Land Management - Under the Utah Enabling Act of 1896, the state of Utah is required to manage school trust lands in order to derive maximum revenue for the benefit of the public school system. Other activities such as those that benefit wildlife, recreation or other values are not legally permissible if they conflict with the primary objective of revenue production.

Section fourteen of S-2949 would amend the Utah Enabling Act to allow the state to manage lands under such multiple use land management practices as the state deems appropriate including use at less than fair market value. We applaud this effort to give the state discretionary authority to manage its lands for multiple use purposes, but do not feel assured that adequate protection for environmentally sensitive lands would be required. No multiple use land planning process is currently mandated for state lands, nor does the State of Utah have laws equivalent to federal statutes protecting wildlife, recreation or other environmental values.

Our concern about the management of federal lands to be transferred to the State of Utah is heightened by a recent statement by Utah Assistant Attorney General, Anne Stirba. Ms. Stirba was quoted in the June 10, 1984 Salt Lake Tribune as saying "However meritorious a non economic use of trust land may be, you cannot turn you back on the purpose of the trust ... to provide revenue for the schools".

We recommend that any Congressionally ratified federal-state land exchange should mandate that any Federal land transferred to the state must be managed for multiple use purposes, including protection of environmental values. Such a provision would help assure that natural values on public lands to be transferred to the state would continue to be protected.

2) BLM Wilderness Study Areas - Under the legislation as drafted, the State of Utah would be granted title to a BLM Wilderness Study Area on the Kaiparowitz Plateau. This would set an unacceptable precedent that would have damaging implications for the entire BLM wilderness review process. Section 603 of FLPMA mandated a review of all BLM lands containing wilderness characteristics and required them to be protected until Congress analyzes the wilderness recommendations and makes final decisions on which areas to designate as wilderness and which areas to release to development. Project BOLD would circumvent this process by giving a WSA to Utah before the process is completed.

Another major concern pertaining to Wilderness Study Areas is Section 5 (c) of S-2949 which exempts WSA's from revenue splitting unless they are released to development. When Congress passed FLPMA in 1976 it clearly stated in Section 603 that only Congress can release a WSA to development or designate one as wilderness. Unfortunately, the Project BOLD legislation does not make clear that Congress retained the prerogative to determine the status of WSA's. Section 5(c) of the bill states that revenue splitting will begin on WSA lands "when and if such wilderness study area is released from wilderness review or the Congress has not designated such area as wilderness before December 31, 1995, whichever should occur first. In order to be consistent with FLPMA this provision should read "when and if such wilderness study area is released by Congress from wilderness review. We oppose the establishment of arbitrary deadlines for Congress to act on wilderness proposals.

3) National Parks - The state of Utah has selected lands adjacent to Glen Canyon National Recreation Area, Natural Bridges National Monument, Arches National Park, Capitol Reef National Park, and Dinosaur National Monument. If these lands are conveyed to the state, there is no assurance that incompatible development which may threaten resources inside the park boundaries will be prevented. Our concern is heightened because these lands, currently under BLM administration, will be subject to the National Park Protection Act should it be enacted into law. The Park Protection Act which has passed the House of Representatives twice, will grant the Secretary of Interior added ability to manage federal lands adjacent to parks to minimize threats to Park resources. On state-owned lands, the Secretary has less ability to control National Park resource threats.

In order to minimize potential threats to National Park resources, we propose that special management language be inserted in the bill for lands adjacent to parks, or that they be excluded from the exchange altogether. We will be happy to submit such language for the Committee's consideration.

4) Mineral Development - The Federal government and state of Utah have substantial differences in the way that hardrock minerals are allowed to be developed. On federal lands, the 1872 Mining Law allows minerals to be given away, with no return to the federal treasury and little control over the rate of mineral development or the type of development that takes place. The State of

Utah, on the other hand, has a leasing system for its metaliferous minerals which currently provides the state with close to $500,000 per year in mineral revenues.

Project BOLD presents a unique opportunity to try an experimental hardrock mineral leasing system on a limited amount of federal land. Rather than opening the new federal lands to the 1872 Mining Law, these lands should be placed on a federal leasing system. It makes sense from a management point of view and because literally millions of dollars in additional revenue would be generated. In these times of record budget deficits, we cannot afford to pass up opportunities like these to raise additional revenue without jeopardizing environmental quality.

In addition, newly acquired federal land within the National Park System, Wilderness lands or wilderness study areas should be withdrawn from all mining activity.

5) Unending land selections - The Legislation as drafted allows the state, after ten years, to select new lands in lieu of any selected lands encumbered by mining claims. Since almost all federal land potentially available for state selection is already encumbered by mining claims, meeting Project BOLD's goal of permanently establishing large blocks of state land could be impossible under this provision. Even worse, the legislation as drafted, appears to allow the state to make in lieu selections from any Federal land - even National Parks, Wilderness areas, or military lands. Project BOLD should establish a uniform, specified time period for the conversion of all federal mining claims to state mineral leases that ensures conversion or cancellation of claims as rapidly as possible. No alternate selections should be allowed under this system.

6) Protection of "rights" - We also oppose S.2949's provisions regarding protection of "rights" existing on state lands which are transferred to Federal

ownership. The first problem is that section 3(g) of S.2949 apparently is intended to greatly expand what has traditionally been defined as "valid existing rights." The second problem is that sections 6-11 of S.2949 appear to exempt the newly acquired Federal lands from Federal law, policies and regulations pertaining to management of Federal public lands. Furthermore, the legislation appears to guarantee future extension of the "rights" of state leasees, permitees, etc. whether or not it is consistent with either sound management of the Federal land or Federal laws.

7) Lands contiguous to Parks, WSAs and wilderness - There is another important point regarding section 4(e) of S.2949. This section provides that in cases where the former state land being transferred to Federal ownership is not wholly within a particular Federal land system (e.g., national park system), the new Federal land shall become public land administered by the BLM. We oppose this provision as drafted. Instead, it should provide that in such cases where lands are contiguous to the national park system and designated wilderness or wilderness study areas, the new Federal land shall be automatically a part of the park system, wilderness or wilderness study area. This would ensure better protection of these areas and would not have the effect of further fragmenting the boundary of the special protected area.

****

The foregoing briefly outlines some of the major concerns of The Wilderness Society. Unfortunately, the limited time available to prepare for this hearing made a more detailed analysis impossible. I would be pleased to provide additional information for the Subcommittee about our concerns at a later date.

That concludes my statement Mr. Chairman and I would be happy to answer any questions.

Senator **Wallop**. Thank you, Mr. Norton, and as you suggest in your statement that you have other concerns that are not listed in this one, and the committee would appreciate hearing those.

I guess I have to say I am not surprised that the Wilderness Society finds itself in opposition. It seems to be that that is the normal case with your organization, that any change from the status quo that you had a hand in developing seems to be opposed. I just have to tell you that I hope that over the course of time going down to the next Congress, that rather than being opposed to it in concept, that you sit down and see if you can't make it work because clearly while there may be some areas where the Federal Government loses a measure of control that it once had—something that you find valuable—there will be other areas where the Federal Government gains control over areas of additional value that you might not otherwise have had. It is very frustrating let me just say honestly, to find that every time there is a proposal for land management that doesn't emanate from the environmental world, the environmental world is automatically opposed.

It doesn't give you the opportunity to be creative and simply stops in its place any attempt to try to get things corrected.

I am just looking through your testimony. For example, you say you applaud an effort to give the State discretionary authority to manage its lands for multiple use purposes but do not feel sure that adequate protection for environmentally sensitive lands would be required.

This doesn't repeal the Endangered Species Act or the Clean Water Act or the Clean Air Act or any of the others, and the State is still obliged to abide by those. They are not granting them any new authority, nor are you taking away from them restrictions that they presently operate under.

Mr. **Norton**. Mr. Chairman, may I mention on that that our concern there is that under current law, the State is required to manage their lands for maximum economic return, and what our concern is, is that we would prefer to see those lands managed for multiple use purposes consistent with the Federal Land Policy and Management Act.

Senator **Wallop**. But if you are going to insist on that, even the exchange procedure under FLPMA will not satisfy you because clearly the State has an interest, but it is obliged to follow the national environmental law.

Mr. **Norton**. Certainly.

Senator **Wallop**. And I notice that you picked up a comment of the assistant attorney general of the State of Utah Anne Stirba, and it caused you concern, saying however meritorious a noneconomic use of trust land may be, you cannot turn your back on the purpose of the trust to provide revenue for the schools.

That doesn't strike me as being all together a radical statement. It strikes me that is fairly rational, and that is in fact one of the things the Federal Government is obliged to do, and that does not mean that it is de facto open for mining or oil and gas leasing or open grazing or any other kind of things that come in there. Economic leases have been judged by many to be all kinds of things not necessary for the return of dollars, and it strikes me again that this is an attempt really to clarify rather than to edify, and I don't think that that is appropriate.

I am going on through, I have made several little notes in here in your testimony, and obviously we are going to have a lot more hearings on it, but one of the things that you talk about is land contiguous to the parks or wilderness study areas or wilderness, and opposing the section as drafted and saying it should instead provide that in such cases where lands are contiguous to the National Park System, designated wilderness or wilderness study areas, new-found Federal lands shall automatically be a part of the park system, wilderness, or wilderness study area.

That is the kind of land management problem that we face now. It wasn't put in those areas in the first place for probably pretty legitimate reasons, and that it automatically qualifies for the National Park System is not land management. That is just, that is just a reactionary statement that says that nobody can do as good a job as the National Park Service or the Wilderness Society, and that is not true. I mean there has to be a better approach to it than just to say they all automatically qualify, and what I think that you should do if you have concerns is take a look at them and see which of them ought to qualify for national parks or as wilderness study areas and which clearly don't have that quality and therefore shouldn't be part of it. We have enough problems trying to manage the public lands in this country and trying to oversee them in Congress without having automatic additions to the National Park System or the wilderness areas or anything else.

Mr. NORTON. Mr. Chairman——

Senator WALLOP. Let me just finish by saying I can appreciate that concern on a case-by-case basis. I cannot appreciate it under any set of circumstances as a blanket recommendation.

Mr. NORTON. Perhaps that is a better approach to take, a case-by-case basis, Mr. Chairman. What our concern there is, is that in some cases State lands may have been excluded from a park or wilderness area or wilderness study area that were adjacent and perhaps contiguous on three sides around the State section.

Now I agree on a case-by-case basis we may want to take a look at those and say hey, that makes more sense to have that be part of the park.

Under the current proposal, they automatically are not a part of the park, or the wilderness, or wilderness study area, so perhaps your approach of using a case-by-case basis to analyze those cases where adjacent land perhaps would be more appropriately included in a park, or wilderness, or wilderness study area would be appropriate.

Senator WALLOP. I think that it is something of an overstatement to say they automatically are not. I mean there is no change in their status.

Mr. NORTON. The State lands will become Federal lands, and under the legislation they automatically become Federal BLM lands, and what we are suggesting is that where contiguous, and I agree that we will need to take a look at them on a case-by-case basis, but I think there are situations where contiguous lands certainly would be appropriately added to a national park or wilderness.

Senator **Wallop**. Let me tell you what the Wilderness Society and its interest gain in exchange for that as the proposal now sits on the table.

All of those State lands that now lie within the national parks and national monuments will automatically go to those, and lands outside get selected. If that were not to be the case, the State of Utah, I think by court decision, will ultimately be able to develop the resources which it processed for the Government in the same kind of way. You are gaining something for giving something, and that is the process of negotiation, and if the Wilderness Society and other groups come to this process with the idea in mind that there is only to be an addition to the interests that they have, it will never work. I believe that ultimately that isn't in the best interests of the wilderness areas and Wilderness Society interests or other environmental groups any more than it is in the interest of the process.

I am not criticizing you personally. I am just saying that to be against because it is different, to be against because it is not getting more than you started with, is not the way to try to get this more efficiently done. I can't help but believe that within all of this proposal there aren't some things that significantly improve the management of the areas which you would like to see improved most. To accomplish that you are going to have to give up a little bit. Otherwise you lose that. The State of Utah loses what it is trying to do, and the public loses something overall, and that doesn't seem to me to be progressive. Please understand, I am not criticizing you, but I am hoping that you take a look at the concept and what is trying to be done here and see if there isn't throughout all of this effort a more creative way to do what all of us want to do, and that is manage what we have in public trust, either State or national, in a better way. I think it can be done, but not if it is with the idea that everything has to be done your way or not at all.

Mr. **Norton**. Mr. Chairman, let me just mention that we welcome the opportunity to try to solve these problems and we would be pleased to work with the committee to work out an arrangement that is satisfactory in terms of both Federal interests and State interests from an environmental point of view, and personally I strongly believe that that type of process can work and that we certainly do support the concept of Project BOLD, and we would be happy to work with the committee in order to refine the problems that we currently see in the legislation.

Senator **Wallop**. Let me just again suggest that the area involved here is about 3 million acres, a little more, and the exchanges which you bear witness to in your testimony if they could be done one a year, and I think you would agree with me they could not be, it would take a minimum of 20 years to get this all done.

In the meantime, valuable management opportunity for both Federal Government and the State would be lost, and so I believe that the legislative concept is worth a shot because I don't see that it serves your interest particularly to have some of these things that you would like to have done most be put off for another quarter of a century on into the next one.

It seems to me that this is an idea which really is worth more effort than blind opposition. I think you know the slogan, and I am quoting that of the Sierra Club, "Not blind opposition to progress, but opposition to blind progress." I think in this instance you fall into the latter trap, not perhaps purposely, but I hope that you may go back and look at it again, that you might be able to do something very much in your interest with a little flexibility.

Mr. NORTON. I appreciate that, Mr. Chairman, and I would like to reiterate that we do welcome the opportunity to work through the process, and we would be more than happy to provide as much input as we can to solve this problem.

Senator WALLOP. All right. I appreciate it and I understand, I understand what it is you are doing and trying to get done, but I believe it can be without a real confrontation, and I want to say to the rest of you, Ron, I understand the problems that you raised, having been part of them.

My guess is that in many respects there will be far fewer problems created than exist and some of what exist may be eliminated, but that doesn't mean we can't get at it.

Mr. MICHIELI. I think so, too, Mr. Chairman, and also in that vein, as other States may come in, the precedent that is established here would be of significant importance to us, and we certainly want to be a part of that process.

Senator WALLOP. Well, thank you all very much. Paul, nice to see you here, and please give my regards to the State officers, the Governor.

With that, the subcommittee stands adjourned.

[Whereupon, at 11:40 a.m., the hearing was adjourned.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

NORTHWESTERN BAND OF SHOSHONI NATION
Washakie, Utah

Kenneth L. Neaman
Chairman
Volcic MPH #19
Star Route 2 W
Rock Springs, Wyo. 82901
307/382-3943

October 11, 1984

Sen. Malcolm Wallop
Ch. Public Lands and Reserved Water Sub.
Energy and Natural Res. Comm.
S D - 309, Dirksen Office Bldg.
Washington D.C. 20515

Attn: Tony Bevinetto

Re: Utah Federal and State Land Management Improvement Act of 1984

Dear Senator Wallop:

The Northwestern Band of the Shoshone Nation is a federally recognized Tribe and is a party to two treaties with the United States, the Treaty of Box Elder, of 1863, 13 Stat. 663. and the Treaty of Fort Bridger, Act of July 3, 1868, 15 Stat. 673.

Pursuant to the Fort Bridger Treaty of 1868, the Northwestern Band as represented by Chief Washakie, ceded title to vast areas of land in Northern Utah, Idaho and Eastern Wyoming.

Pursuant to Article IV of said treaty, the Northwestern Band, as did the other Shoshone Bands, reserved to themselves the "right to hunt" on "the unoccupied lands of the United States" within the ceded area.

The language noted above, "the right to hunt on the unoccupied lands of the United States" has been interpreted to include the right to fish and to apply to federally owned lands such as those administered by the Forest Service and the Bureau of Land Management. State v. Tinno, 497 P.2d 1386 (Idaho, 1972).

There are federal lands, i.e. unoccupied lands of the United States in northern Utah, within the area to which the Northwestern Band asserts a right to hunt pursuant to the Fort Bridger Treaty. Some of those federal lands will be affected by the above referenced legislation. Once transferred to the State of Utah they will presumably no longer be characterized as "unoccupied lands of the United States", thereby abrogating the treaty right to hunt on said lands. Those federal lands to which I am referring are the lands near the Grouse Creek Mountains; the Raft River Mountains; and those in the Bear River area of Rich County (See copy of attached map).

In order to avoid the abrogation of said treaty right, we are recommending that the following language be inserted in the legislation:

> Notwithstanding the foregoing conveyance of federal lands, the title to those federal lands conveyed to the State under this Act shall be subject to rights reserved pursuant to the Treaty of 1868, 15 Stat. 673.

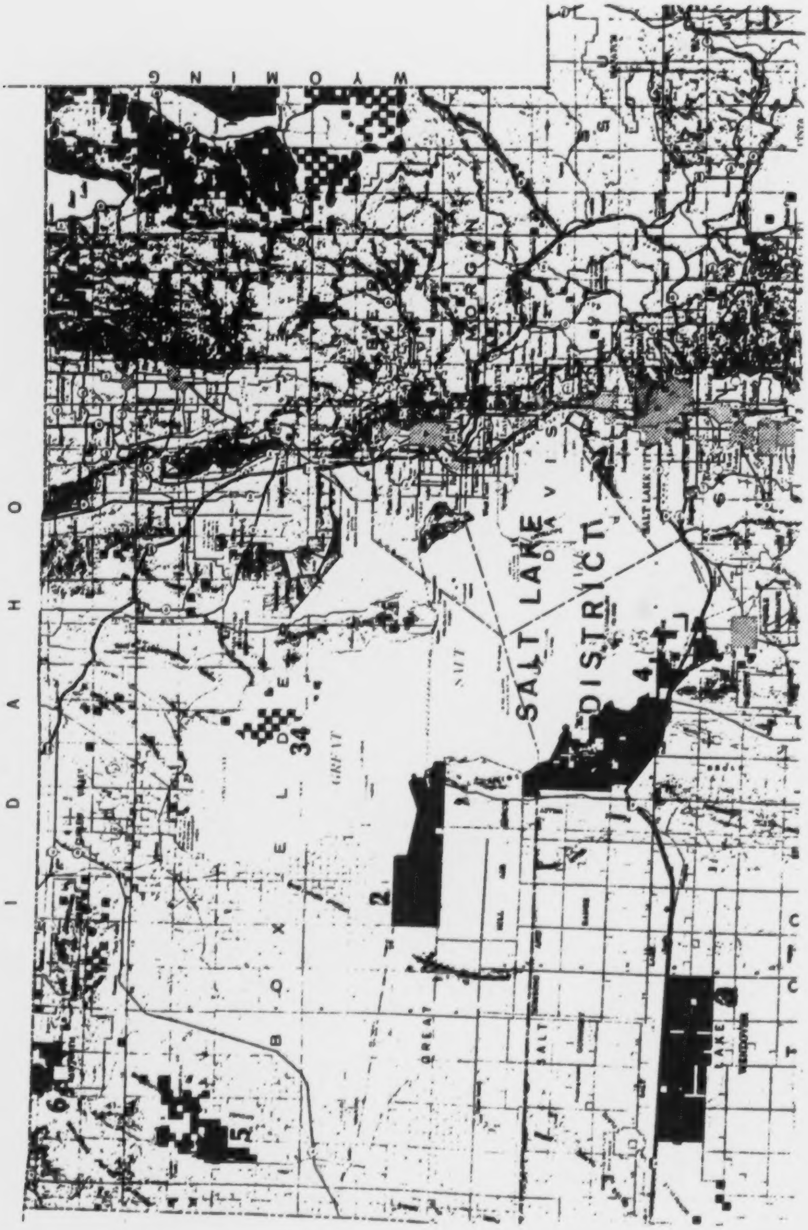
After you have had an opportunity to review this matter, please call me if you have any questions or concerns.

Sincerely,

Mary Ellen Sloan

MARY ELLEN SLOAN
Attorney for
Northwestern Band

MES:lw


IDAHO
WYOMING
BOX ELDER
MORGAN
DAVIS
SALT LAKE DISTRICT
GREAT SALT LAKE
TOOELE
SALT LAKE CITY
WENDOVER
34
2
3
4
5
6

Utah Wilderness Association

325 JUDGE BUILDING·SALT LAKE CITY,UTAH 84111·(801)359-1337

October 11, 1984

Senator Malcolm Wallop, Chairman
Public Lands and Reserved Water Subcommittee
SD-308
U.S. Senate
Washington, D. C. 20510

Dear Senator Wallop:

Please include the following comments in the official hearing for S.2949, Project BOLD:

Since its inception in 1980, Project BOLD has progressed toward congressional action. Although changes and refinements still must be made in the legislation before passage, it is finally on its way to eventual enactment. Project BOLD will solve many land management problems faced by both the federal and state land management agencies, and, with the essential changes we have detailed in these comments, will help minimize any "new" problems created with such an undertaking.

It is clear Project BOLD is an essential component to proper public land management in Utah. Unlike most states which received from the federal government one or two sections per township, Utah received four. This has compounded the problem of land management where this checkerboard ownership pattern remains--and where it remains is the rule rather than the exception. About 5,000 individual scattered state sections are intermingled with federally managed public lands. Not only are management problems evident from conflicting uses and philosophies of the various land management agencies, but administration, bookkeeping and actual on-the-ground resource management is more complicated and confused, even in the absence of conflicting management direction.

Project BOLD has been predicated from the beginning on two sound principles--the obvious removal of the onerous land ownership pattern and the initiation of state land management policy parallel to the multiple use concept under which most federal public lands are managed. This would incorporate for the first time on state lands an official management policy including wildlife enhancement, watershed protection and the preservation of important natural and ecological values.

This first goal is virtually unachievable without congressional action as contemplated in S. 2949. Although FLPMA provides a sound framework for land exchanges, the magnitude of the scattered land ownership pattern in Utah makes it an impractical method to accomplish the necessary land consolidation in any sort of timely manner. We recognize the value and the reliability of the FLPMA land exchange provisions in sec. 206 for normal circumstances; however, the problem we face in Utah is of extraordinary magnitude. The second goal of BOLD is to establish a full range multiple use management philosophy for state lands. The state legislature passed in 1983 a law enabling the state to manage for other than maximum economic return and for multiple use. However, this law needs strenghtening via change in the Enabling Act. This is particularly true for state land planning. The Enabling Act needs amendment and stronger multiple-use language should be adopted which includes an adequate land planning process requiring public input and comment similar to the federal agency planning processes. Also, the citizens of Utah, the owners of the state land, must have a forum for recourse. The process must be open so that land management decisions can be made in the public's interest! This critical point should not be overlooked in any amendment to the State's Enabling Act. BOLD's success, legislatively and administratively, depends on these and other changes. Without an equitable multiple use planning process, Project BOLD will fail to accomplish its goal and it will be a failure. The attached sheet details the changes in the Enabling Act we feel should be made in lieu of changes in sec. 14 of S. 2949.

S. 2949 does need change to make it more equitable and to avoid confusion and possible conflict with existing law. These changes range from site specific concerns about selected tracts of land to changes in the legislation that critically affect the ability of the State to involve the public in a multiple use planning process.

The rights definition under section 3(g) is far too broad and is in conflict with existing policy and law. Grazing privileges and mineral leases are not legally defined "rights" and cannot be treated as such. The agencies, state and federal, must have the ability to deal with land users in exactly the same manner as at present. These are "public" lands. Giving grazers, miners, etc. extra "rights" leaves out the true owners of the land and creates de facto ownership. It is a privilege not a right for these type of users to derive economic gain from the public lands.

The revenue sharing section (sec. 5) for mineral leases seems unduly lengthy and complicated. More study to answer questions such as do state leases inside WSA's fall under the non-impairment criteria.

An absolutely necessary change is the elimination of section 5 (4). The 1995 "cutoff" date for WSA's is a backdoor attempt to justify administrative release of BLM WSA's, something that is clearly prohibited and is totally inconsistent with FLPMA and congressional intent.

With regard to hardrock mineral rights, we remain concerned about the prospect of continuing the scattered ownership and in lieu selection problems through recognition of rights in, and possible ultimate patenting of, currently unpatented mining claims. It would be perfectly sensible, and not even arguably unconstitutional, for the federal government to enact a three-or five-year transition period in which a claim is either patented or cancelled. Transfer of title to the state would not take place until the end of the transition period. If a claim on state-acquired lands were patented during this period, then the state would select an equal acreage contiguous to the block within which the patented claim lies or go back to Congress with a new acquisition proposal. This would avoid some of the in lieu selection problems by narrowing the choices for state selection and equating acreage with value for the lands in the same vicinity. Private inholdings within a given tract might then create management problems for the state, which provides strong incentive for the state to avoid acquisition areas in which mining claims are likely to prove valid. Because the vast bulk of current unpatented mining claims are invalid, however, the state is not likely to lose significantly under this proposal. Section 6(d) appears to nullify the discretion of the acquiring entity to renew or not renew leases. This section needs to be clarified by wording changes to make it clear that the leases, privileges,etc. need not be renewed by the acquiring entity.

Section 9(d) is not clear as to all rights. Conceivably under this section a state section within a WSA that is transferred to the federal government would contain access above and beyond the non-impairment criteria possibly including access rights under the Cotter case. This section should be changed and clarified to make it clear these lessees have no greater access rights than other federal lease holders. A similar problem could exist in section 9(c) for the state management agency.

We do have some site specific objections that need to be changed in order for BOLD to become consistent with existing policy. Several of the selected areas border sensitive national parks and other areas of concern. Care should be taken by the State of Utah when managing these tracts of land. Once they are acquired Congress should enact stipulations on how these areas are managed. The Kaiparowits land tract is within the Death Ridge BLM WSA. For the BLM to exchange out of this area would be against all past policy and in clear violation of section 603 of FLPMA. We are firmly opposed to this tract being selected as a state acquisition area. We received at the beginning of the BOLD process assurances that the state would exchange out of all WSA's and now we see a reversal of the original BOLD direction.

With the above noted changes, changes that are essential to BOLD's eventual success, BOLD can be well on its way to passage in the intervening months ahead. BOLD is an innovative concept that may well take time to resolve all the technical issues involved in this specific legislation. However, the base is strong and serves as a model for better land management in Utah and elsewhere. Hopefully, inadequacies and inequities in the present legislation, problems that can be easily resolved, will not keep this project from eventual passage.

Cordially,

Gary Macfarlane

Gary Macfarlane
Natural Resource Specialist

Utah Enabling Act §10:
(a) (Existing Language)

(b) Prior to disposition, the lands granted for educational purposes shall be managed for the benefit of the public without any requirement that the State seek maximum economic return on the use of those lands. The State shall adopt and implement a planning process for management of school lands that shall

(1) use and observe principles of multiple use and sustained yield;

(2) use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences;

(3) give priority to the designation and protection of areas of critical environmental concern;

(4) consider present and potential uses of the school lands;

(5) consider the relative scarcity of the values involved and the availability of alternative means (including recycling) and sites for realization of those values;

(6) weigh long-term benefits to the public against short-term benefits;

(7) provide for compliance with applicalbe pollution control laws, including State and Federal air, water, noise, or other pollution standards or implementation plans; and

(8) provide for public participation in the development of plans and in making decisions pursuant to those plans.

Gulf Mineral Resources Co.

S. A. Zagnoli
EXECUTIVE VICE PRESIDENT

1720 South Bellaire St
Denver CO 80222

33

October 12, 1984

The Honorable Malcolm Wallop
Chairman
Subcommittee on Public Lands and Reserved Water
U.S. Senate
Washington, D.C. 20510

Dear Senator Wallop:

I am pleased to submit comments for inclusion in the record of the Subcommittee's October 2 hearing on S. 2949, the Utah State and Federal Land Management Improved Act of 1984, also known as Project BOLD.

Gulf endorses the exchange of scattered sections of land for consolidated blocks of equal value in the oil shale region of the Uintah Basin as proposed in Project BOLD.

Oil shale development requires access to both the surface and subsurface rights of large tracts of land. In Utah, however, our federal unpatented oil shale mining claims have and will probably indefinitely remain tied up in litigation over their validity.

Gulf and other holders of federal unpatented oil shale mining claims have already reached agreement with the state of Utah to exchange these claims for preference right leases from the state. This will enable the federal government to transfer clear title to the state without the encumbrance of outstanding mining claims and obviates the need for the seemingly endless procedures and litigation concerning federal patenting.

Gulf's support for S. 2949 is also based on the bill's intent, not only to improve public land management in Utah, but also to protect existing uses and rights. Maintaining and guaranteeing the historical multiple uses of these lands, including oil and gas exploration and production, must also be a goal of this legislation.

Thank you for this opportunity to comment. We would be pleased to provide additional information in any future deliberations on Project BOLD.

Sincerely,

S. A. Zagnoli

SAZ:bl

A DIVISION OF GULF OIL CORPORATION

TELEPHONE (303) 759-6661